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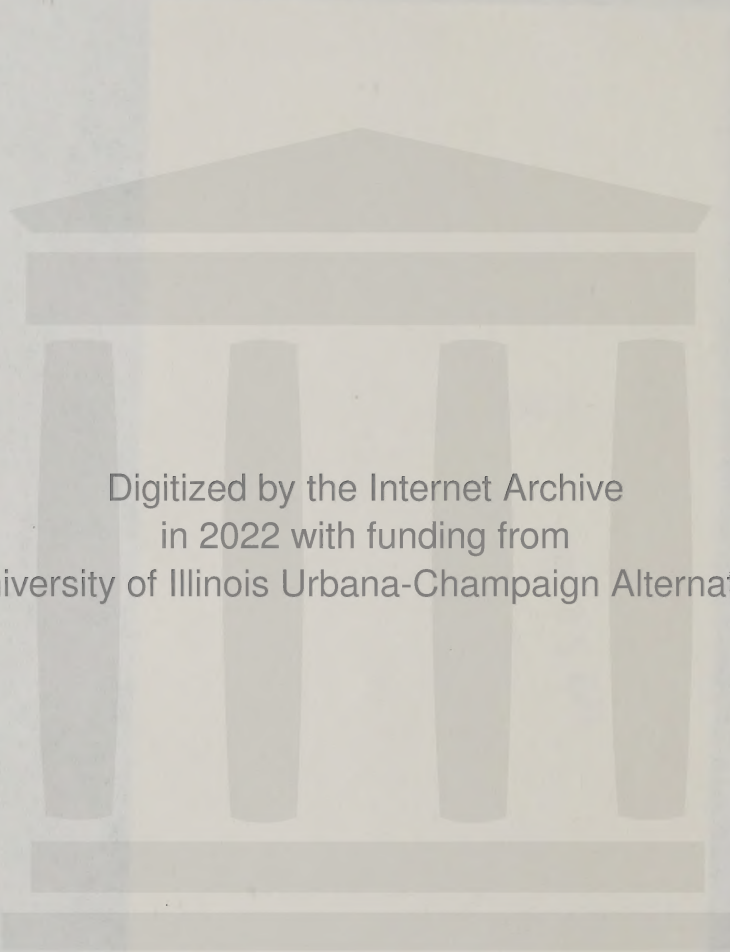
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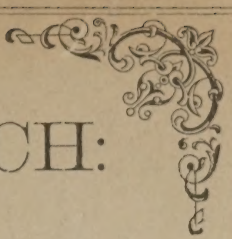
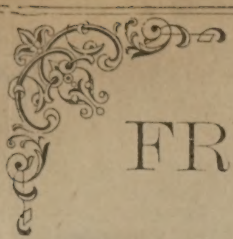
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FREE SPEECH:

REPORT OF EZRA H.

HEYWOOD'S DEFENSE

*BEFORE THE UNITED STATES COURT, IN
BOSTON, APRIL 10, 11 AND 12, 1883;
TOGETHER WITH*

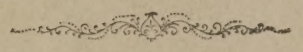
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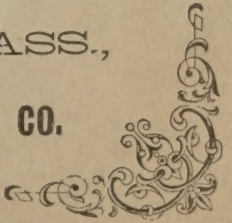
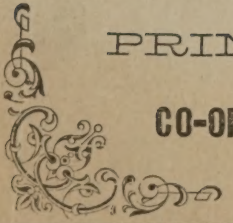
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SOCIAL EVOLUTION,

And Other Interesting Matter.



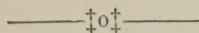
PRINCETON, MASS.,



CO-OPERATIVE PUBLISHING CO.

1883

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PUBLISHERS' PREFACE.

Though "Heaven's high behest no preface needs" government raid on Citizen Right requires words in behalf of Liberty and Union which intelligent collectivism promotes; for the status of mutual freedom is imperiled the moment Personal Integrity suffers detriment. Beyond all other extant expressions of opinion Princeton Literature proclaims the American Idea, Liberty in Right; giving initiative to political, industrial, religious and social growth—it develops and incarnates Natural Law and Order on all lines of individual and associative enterprise, finding in Opportunity and Reciprocity essential guarantees of fruitful Peace and progressive Harmony. The coercive weight of majority despotism, the arbitrary spirit of war policies and the restrictive purpose of war-begotten legislation culminated in the stealthy procurement of Comstock's "statutes" which, *by invasive device*, put a decoy God into the Federal Constitution, subject Thought to tyrannous supervision and fasten on hitherto comparatively free States superstitious, arrogant, venomous Censorship of the Press and of Morals. The assault on Mrs. Woodhull, Messrs. Train, Lant, Dr. Foote, and many others revealed the savage purpose of Inquisition, startling Citizens to inquire if our liberties were irrevocably wrested from us. Though Mr. Heywood had held Free Love views, twenty years, they were first published, Jan. 1876, in Cupid's Yokes which decrees SEXUAL SELF-GOVERMENT, demands immediate, unconditional repeal of "obscenity statutes," and *inculcates the duty and necessity of Citizens judging for themselves what is right in all matters of human interest*. The old church notion that man is the head of woman, that she is for his use and pleasure, irrespective of what her mind and conscience teach, is a most revolting phase of the inquisitorial conspiracy, making women insurgent wherever they sense the purpose of legalized terrorism, and especially moving Mrs. Heywood to resent barbarous imposition by incisive, persistent statement which has become notably beneficent. The logical assertion of Liberty which illumines Princeton Heights sheds light on every phase of Reform and opens paths out of dense religio-political darkness; but alarmed usurpers "breathing out threatening and slaughter" struck against oracles of Truth. For alleged-mailing Cupid's Yokes and Trall's Sexual Physiology Mr. Heywood was arrested, Nov. 2d, 1877, tried and convicted later, and, June 25th, 1878, sentenced by Judge Nathan Clifford, to two years at hard labor in Dedham Jail; but was unconditionally released by President Hayes, Dec. 19 following. Enraged by signal defeat Comstock broke in again upon the Princeton home Oct. 26, 1882,* seized and carried off Mr. Heywood who was again lodged in Charles St. Jail, Boston. Here is the "complaint:"

DISTRICT OF MASSACHUSETTS, CITY OF } ss.
BOSTON, IN THE COUNTY OF SUFFOLK, }

"Anthony Comstock, of the City of Brooklyn, County of Kings, State of New York,

* When Comstock came in, with presuming impudence he offered to shake hands; Mr. H. put his hands behind him. When the baby-girl, Psyche Ceres, trotted in, C. tried to coax her towards him; Mr. H. said "Don't pollute her with your caresses." Leaving "the prisoner" in charge of Dep. U. S. Marshal Enos, a very gentlemanly officer, who apologized for coming to Princeton on such business, C. crossed the common for conveyance; as the team drove up Mr. H., stepping front to catch the driver's eye, asked "Mr. Bliss is this your free-will act helping kidnap a neighbor?" He instantly replied "This man is a stranger who called for a team; I not knowing whom I was to carry;" Comstock blazed in "I should have arrested him and taken his horses had he not harnessed up;" (To officer Enos) "Put him in, put him in"—but there was no armed revolt or other attempted rescue! On the way to Holden depot Mr. H. said to Comstock "Man after man has been to me to take the contract to kill you, but Citizens have talked the matter over and concluded you are not worth the powder; if we make a martyr we want decent stock for it;" "Why did you, backed by two armed-policemen, refuse to read your warrant and threaten to take me, without coat or hat, from Nassau Hall, Nov. 2d, 1877?" Comstock replied "There were 250 men in that Convention that I did not care to come in collision with!" Reaching Boston at 2 P. M. Mr. H. was locked into a U. S. Court-room till 4 o'clock, not being allowed to communicate with friends to get bail, when they said "No one has come to bail you and we must commit you." So, by a piece of purely gratuitous malice, for which Commissioner Hallett and Dist. Att'y Sanger are responsible, Mr. H. was, needlessly, put and kept in Jail forty-four hours!

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being duly sworn, deposes and says that he is an Inspector of the Post Office Department of the United States; that he is informed and verily believes that on or about the tenth day of October, 1882, Ezra H. Heywood, of the town of Princeton, in the State of Massachusetts aforesaid, did unlawfully, wilfully, and knowingly deposit or cause to be deposited in the mails of the United States, then and there for the purpose of mailing and delivering a certain obscene, lewd and indecent book and pamphlet, which said book and pamphlet was then and there known, called, and described by the title of Cupid's Yokes; and deponent further saith that in the same package there was also a certain other obscene, lewd, and indecent book, paper, pamphlet and print, which said book, paper, pamphlet and print was then and there enclosed in a paper sealed wrapper, and addressed as follows, that is to say: 'J. A. Mattocks, P. O. Box 441, Nyack on the Hudson, Nyack, N. Y.' against the peace of the United States and their dignity, and against the form of the statute of the said United States in such case made and provided." The second complaint is drawn in the same form and charges the mailing of "a certain printed notice giving information where, how, and of whom, and by what means a certain article designed and intended for the prevention of conception might be obtained and had. This, with a certain obscene, lewd and indecent paper, print, etc., was then and there enclosed in a sealed wrapper, and addressed as follows, that is to say: 'Geo. Edwards, Nyack on the Hudson, Nyack, New York,' against, etc."

At the hearing before U. S. Commissioner Hallett, Nov. 23, Ass't Dis't Att'y Blodgett appeared for the prosecution, and J. F. Pickering, Geo. W. Searle and J. Storer Cobb Esquires for the accused. Hon. Elizur Wright, A. E. Giles Esq., Lucy N. Colman, Mrs. Whittaker, Walter C. Wright, Lucy M., J. Flora and Josephine S. Tilton, Vesta Vernon and Hermes Sidney Heywood, Benj. R. Tucker, Geo. Chainey, J. P. Mendum, F. S. Cabot, J. H. Swain, J. S. Verity, W. S. Bell, Prof. J. H. W. Toohy, Mrs. Toohy, Arthur Hildreth, Geo. and W. C. James, A. C. Robinson, John N. Lee and others "stood up to be counted" for Free Speech. Anthony Comstock and David H. Gregory were the prosecuting witnesses; Mr. Hallett held the accused for trial in \$1,000 bonds, Elizur Wright surety.* The bail in 1877, for first "offence," was \$1,500; John C. Haynes surety.

Affecting to conserve "order" by learned pretense of "pure" purpose, church-state knaves "preface old rags with plush;" their whole treatment of moral questions, in so far as legislation restricts Creative Enterprise, is an attempt to overcome good with evil; the fact that persecution of liquor sellers, effort to suppress, by violence, those whom temperance enthusiasts cannot convince by argument, is so generally favored, reveals moral blindness if not sheer idiocy in legislators relative to prevailing evils. The gravely serious issues involved in Love and Parentage should be studied by every intelligent person; yet, *for investigating these questions, expressing honest opinions, stating facts, Citizens are now liable under United States "law," to \$5,000 fine and ten years imprisonment!* Since the publication of Paine's "Age of Reason" and "Common Sense" no book has encountered such virulent intolerance as has Cupid's Yokes, during the seven-years persecution which Social Evolutionists have suffered from malicious ecclesiasticism invading Civil Right; yet, as Roger Williams developed Soul Liberty and thereby assured religious freedom to modern States; as Thomas Paine summoned priest-king craft to the bar of conscientious Judgment, so Free Lovers call human beings to moral order in Sex Life, bring reproductive instinct and domestic venture within the domain of Reason and Moral Obligation. In order to hasten thorough investigation of the chronic evils which pulpit and press, church and state are powerless to remove; to nerve revolt against tyrannous legislation which imperils all the time-honored guarantee of Liberty, and move Citizens to *steadfastly exercise their Natural Right to freedom of Thought, Speech, Press and Mail* this report of a notable trial hereby becomes permanent part of recorded history and of the literature of democratic evolution.

* Matters had proceeded so far when Mr. Heywood was called upon to stand up. This he declined to do, saying that he refused to take any part in an assault upon himself. The commissioner thereupon committed him, and left the room in a great passion, remarking in an undertone that he would not have any such tom-foolery in his court. He, however, in response to the requests of counsel, made two more endeavors with Mr. Heywood, and these being equally unsuccessful, he was removed in the custody of a deputy marshal. One more chance, however, was given him. The commissioner again took his place in court. Mr. Heywood was brought in by the deputy marshal, the business of giving bail was concluded, and he was released. After receiving numerous congratulations upon his narrow escape from the prison cell, Mr. Heywood left the court with his friends.—*Foot's Health Monthly*.

INDICTMENT AND TRIAL.

Assisted by Comstock and Dist. Att'y Sanger the Grand Jury indicted Mr. Heywood who was called for trial, Jan. 1st, 1883; but, his counsel having withdrawn, the case was allowed to go over to the March term in order to give him due time to prepare a defense. Tuesday, April 10, he was put on trial,—Chas. Almy Jr., Ass't. Dist. Att'y for the accuser, Mr. H. for himself, his family and the People, Judge T. L. Nelson of Worcester presiding. The Jurors were Wm. E. Cole (Foreman), John A. Beard, of Sutton; Albert J. Bixby, Edgar L. Fay, of Lowell; Henry S. Elder, Alonzo Gooch, of Huntington; Roger Cunningham, Nathaniel B. Fisher, of Walpole; Horatio G. Hammond, of Wayland; Stephen Hatheway, of Marblehead; Geo. W. Cole, Henry Wilkins, of Chelsea. In order to disclose the animus of accusers and pretake his battle-ground of defense Mr. Heywood put these questions to the Jury:—

1. Are you in favor of depriving Massachusetts Citizens of their liberty, property or life on fictitious, manufactured testimony?

2. Do you believe falsehood and treachery either justifiable or necessary to promote sound morality or to advance the interests of pure and undefiled religion?

3. Have you ever bought liquors, cigars, syringes, books or other vendible commodities to entrap dealers therein, or to secure evidence against them to convict them of any real or imaginary crime?

4. Have you ever signed the names of women to letters, represented yourself as a woman or girl, worn women's clothes or *ever feigned, forged or otherwise used other than your own lawful name* in any transaction whatsoever?

5. Do you believe that maternity is a matter concerning which women should be consulted, that they should do therein what seems to *them* right and best; or do you think it right or expedient to subject women to forcible impregnation against their reason, conscience or voluntary choice? In other words *are you opposed to Rape?*

6. Assuming the doctrines and principles of Cupid's Yokes and Leaves of Grass to be erroneous do you think or any wise believe that their authors or venders are guilty of any immoral or criminal act or intent simply *because their opinions or style of writing differ from your own*, or from those of other industrious, peaceful and law abiding citizens?

7. Are you personally acquainted with, engaged in business for, a party to vice-society prosecutions, or any otherwise associated with a *supposed person reported to be Anthony Comstock*, alias Mrs. Farnsworth, alias J. G. Phillips, alias Ella Bender, alias E. Semler, alias Annie E. Ray?

8. Assuming the defendant to be a Free Thinker or Free Lover *holding compulsive union between the sexes to be immoral and impolitic* are you under the influence of any religious, moral or social opinions or prejudices which will tend to prevent your acting impartially as a juror in the trial of this case?

9. Have you ever visited houses of ill-fame, hired women or girls to show their nude persons to you or done other immoral or disreputable things *to get evidence against alleged wrong-doing, to promote morality, secure your own eternal salvation, or for any other purpose*, which you claim to be honorable, worthy and necessary?

The indictment contained four counts as follows:—

UNITED STATES OF AMERICA. District Court of the United States of America, for the District of Massachusetts. At a District Court of the United States of America for the District of Massachusetts, begun and holden in Boston, within and for the said District, on the first day of December, in the year of our Lord one thousand eight hundred and eighty-two. The Jurors of the United States of America, within and for the District of Massachusetts, upon their oath present:

That heretofore to wit, on the tenth day of October in the year of our Lord one thousand eight hundred and eighty-two, at Princeton, in the said district of Massachusetts, Ezra H. Heywood did unlawfully and knowingly deposit and cause to be deposited in the mails of the United States, then and there for mailing and delivery a certain, obscene, lewd, and lascivious book called "Cupid's Yokes; or the Binding forces of Conjugal Life," which said book was then and there non-mailable matter, as declared by section one of an Act of Congress approved on the twelfth day of July in the year of our Lord one thousand eight hundred and seventy-six, which said book, . . . was so grossly obscene, lewd, and lascivious that the same would be offensive to the court

here, and improper to be placed upon the records thereof; wherefore the jurors aforesaid do not set forth the same in this indictment; which said book was then and there enclosed in a certain paper wrapper. . . addressed and directed as follows, that is to say: "J. A. Mattocks, P. O. Box 441, Nyack on the Hudson, N. Y. Nyack, N. Y., against the peace of the United States, etc.

And the jurors. . . further present that. . . on the tenth day of October. . . a certain obscene, lewd, and lascivious print, that is to say a certain slip of paper containing printed matter, at the head of which said print were then and there printed the words, "The Word Extra;" and the contents of which said print were then and there non-mailable matter. . . and were so grossly obscene, lewd, and lascivious, that the same would be offensive to the court and unfit and improper to be placed on the records thereof, etc.

And the jurors. . . further present that. . . on the eleventh day of October. . . a certain printed advertisement. . . was then and there contained in a certain printed paper called The Word, and. . . gave information how and by what means a certain article designed and intended for the prevention of conception, that is to say a certain syringe called The Comstock Syringe could be obtained which said advertisement was then and there non-mailable matter. . . said paper called The Word was then and there enclosed in a certain paper wrapper. . . addressed and directed as follows: "Geo. Edwards, Nyack on the Hudson, N. Y. Against the peace of the United States, etc.

And the jurors. . . further present that. . . said advertisement began as follows: "The Comstock Syringe for Preventing Conception, sent prepaid on receipt of price, \$10." And in the said paper called The Word, in the same page and in the same column thereof. . . was then and there an enumeration of certain articles, and lower down on said page and column said advertisement then and there continued as follows: "Any of the above sent postpaid on receipt of the price by the Co-operative Publishing Co., Princeton Mass." And that in the part of the advertisement just quoted the words "any of the above," were intended to refer and did refer to the said Comstock Syringes in the part of the advertisement first above quoted, and the said part last quoted was then and there intended to give information. . . how an article designed and intended for the prevention of conception, to wit, the said Comstock Syringe could be obtained, etc. . . Against the peace of the United States and their dignity, and against the form of the statute of the said United States in such case made and provided. A True Bill. Leander J. Wing, Foreman of the Grand Jury; Geo. P. Sanger United States Attorney for the District of Massachusetts.

The other grandjurymen given were: Michael J. McGrath, John H. Chadwick, Edward H. McCormack, Eugene C. Belcher, Boston; C. T. Page, Clarksburg; Seth Sprague 2d, Hiram D. Howard, Hingham; Wm. G. Davis, James H. Temple, Hopkinton; H. A. Woodworth, Thatcher Merriam, Lawrence; Lyman Lawrence, Lexington; Nathaniel A. Moses, Luther Turner, Medford; Levi B. Allen, John N. Gates, John N. Burnett, South Hadley; Charles H. Rockwood, Lovel F. Gage, Lyman A. Trumbull, Warren; Charles H. Cleveland, J. M. Rice, Worcester.

MR. ALMY'S OPENING REMARKS.

May it please your Honor, Mr. Foreman and Gentlemen:—You are to pass on questions which have been passed on before, but you have heard nothing as yet in this case. We do nothing here unauthorized by law; as you know, we have a statute concerning the counts in the indictment just read to you, of date July 12th, 1876, Chap. 186, page 90; this constitutes an amendment to an earlier statute; and is as follows:—

Every obscene, lewd, or lascivious book, pamphlet, picture, paper, writing, print, or other publication of an indecent character, and every article or other thing designed or intended for the prevention of conception or procuring of abortion, and every article or thing intended or adapted for any indecent or immoral use, and every written or printed card, circular, book, pamphlet, advertisement, or notice of any kind, giving information directly or indirectly, where, or how, or of whom, or by what means, any of the hereinbefore mentioned matters, articles or things may be obtained or made, and every letter upon the envelope of which, or postal card upon which indecent, lewd, obscene, or lascivious inclinations, epithets, terms or language may be written or printed, are hereby declared to be non-mailable matter and shall not be conveyed in the mails, nor delivered from any post office nor by any letter-carrier; and any person who shall knowingly deposit, or cause to be deposited for mailing or delivery, anything declared by this section to be non-mailable matter, and any person who shall knowingly take the same, or cause the same to be taken from the mails, for the purpose of circulating or disposing of, or of aiding in the disposition of the same, shall be deemed guilty of a misdemeanor, and shall for each and every offence be fined not less than \$100 nor than more \$5,000, or imprisoned at hard labor not less than one year nor more than ten years, or both, at the discretion of the court.

The first count charges the sending of a certain book known as "Cupid's Yokes," and it will be before you when you consider the evidence. That book, the government will claim to you comes into the designation of obscene, lewd, or lascivious, as contained in the statute. At the proper time the court will give you instruction as to the matter of law as to what is meant by lewd or lascivious literature. And the matter is pretty well settled; it has been laid down in the Circuit Courts of two of the States in this State and New York, and in others doubtless, the question as to what is meant by these words is well considered. I think that after this first case there will be no doubt in your mind,—that it will be conceded that the principal question to you gentlemen, will be whether it does come within those restrictions. But what there is to be said about that will more properly be said after the book is before you and certain parts read to you as immoral and indecent.

Another count of this indictment refers to a thing which is entitled "The Word Extra," and which is described in this indictment and undoubtedly is obscene; and I think the evidence will satisfy you that this was sent through the mail. This consists of two extracts from the poems of a man who has been greatly advertised by those poems, Walt Whitman's "Leaves of Grass." Now the question comes before you, as to whether that is unfit to be sent through the mails, these two poems—one addressed "To a Common Prostitute," and another "A Woman Waits for me," the two most objectionable points in the book. These you will find yourselves gentlemen, for they are the only ones coming under the instructions of the Court to know whether these are obscene, lewd or lascivious; you will read them.

The remaining charge is that he sent as the statute describes "any article or thing designed or intended for the prevention of conception, or any written or printed card, circular, book, advertisement or notice of any kind giving information directly or indirectly where, of whom, and by what means any of the things above mentioned may be obtained." We charge that he sent a certain advertisement, printed in a certain paper called *THE WORD*, which paper I suppose it is not to be seriously denied, is published by this man; that in that paper there is a certain advertisement which described a certain instrument for the prevention of conception, and that it stated where and from whom it might be obtained. That is the third charge. Your attention will be called to the articles: They speak for themselves.

Judge Nelson threw out "The Word Extra" because the allegation in the indictment that it "is too grossly obscene and lewd to be placed on the records of the court" is untrue. He asked Mr. Almy to say on what passages in *Cupid's Yokes* he based the same charge. Mr. Almy replied that he had not yet selected the "obscene" portions; "Then" said Judge N. "you must read the whole book before we proceed further." Mr. A. stumbled along through it noting the "obscene" passages but did not find the "worst" (best) ones! Judge N. said, "The Court is robust enough to stand anything in that book" and out it went! "But your action involves acquittal of the defendant on the two first counts of the indictment" said Mr. A.; "Can't help that," replied Judge N.; "I do not rule on alleged obscenity but simply say the allegations in the indictment that the works are too obscene to be spread upon the records of the court is not true." In the discussion between Mr. Almy and Mr. Heywood on these points, Mr. H. read Emerson's famous letter to Walt Whitman and quoted many other distinguished writers to show that the charge of "obscenity" in *Leaves of Grass* is groundless. Post Master Gen. Howe ruled that the book is mailable; if the whole is mailable then any part is; the two condemned poems were reprinted, without note or comment, simply to resent rude, vulgar censorship; and to vindicate freedom of the press and of the mails invasively denied by "obscenists." The highest exponents of United States law pronounced *Cupid's Yokes* not obscene.

The trial proceeding on the 3d and 4th counts of the indictment the

government called as witness a person who gave the name of Anthony Comstock; Mr. Heywood objected: "Before this witness testifies the Court should know who he is; a person disreputably known by many different names sometimes says he is Anthony Comstock; but *it is not certain whether this person is Anthony Comstock, Ella Bender or some other one of the score or more alleged persons infamous in vice-society prosecutions*; a ten-dollar check would not be paid him by any Boston bank without identification; I submit, your Honor, that the District Att'y should produce some intelligently reliable man or woman who can say that this much "aliased" person is the one he now claims to be before he is allowed to swear away the liberty of Massachusetts Citizens." Judge Nelson listened good naturedly, but allowed witness to testify that, in answer to a letter he sent Mr. Heywood, he received back by mail a copy of Oct. Word (1882) containing the indicted advertisement and produced a registered letter receipt signed by Mr. H. On cross examination Comstock admitted he did not sign his own name but wrote three different letters to Mr. H., signed "J. A. Mattocks;" * said "A. F. Ducret" and "Geo. Edwards" were men

* Vice creating, crime promoting, violation of law, falsehood and treachery are Comstock's methods to enforce what he calls "morality;" in 1877, pretending to be a "Free Lover," he wrote Mr. H. as follows:—

Squan Village, N. J.:—Press on as you are going and be sure in the end justice will be done you. It is a long lane that has no turn. You have labored hard, but many eyes have followed your efforts. Truly Yours, E. Edgewell.

Now a "Labor Reformer" he lies, deceives, decoys, this wise:—

Nyack-on-the-Hudson, N. Y., Sept. 26th, 1882; (To Co-operative Publishing Co.,) Agents:—Enclosed I send you for following articles—THE WORD 1 year 75 cents; Anthony Comstock by D. M. B., 25; Marriage and divorce by J. C. Cheney, 25; An Open Letter to Jesus Christ, 5; 1 Doz. Leaflet Literature, 5; amount \$1.50. What would Mr. Heywood charge to come to this place and lecture? There is a good many laborers here and a liberal propensity is marked. I have been having a copy of THE WORD sent me by a friend and as it comes very irregular thought I would subscribe for the same. I saw and heard Heywood when in New York some two years ago. He may not remember me. Please address plainly, J. A. Mattocks, care J. H. Mattocks, P. O. Box 441. P. S. Commence subscription for THE WORD with last number.

Nyack-on-the-Hudson, Oct. 3d, 1882, Sir:—Your favors duly received. You say you will come and lecture here for \$15 and expenses. When will you come? What will be the expenses, what are your club rates? You did not name them. I send 75 cents for THE WORD for A. F. Ducret of this place. Also for Cupids Yokes and balance in tracts on labor reform. Please excuse pencil and haste as I am in a great hurry. Yours, J. A. Mattocks, Box 441.

Nyack-on-the-Hudson, Oct. 7th, 1882, E. H. Heywood, Princeton, Mass., Sir:—I sent you an order a few days ago, which I presume you will fill in due time. You may add to that a sub for THE WORD for *George Edwards* and also two more copies of C. Yokes. What is Mr. Tucker's address and his first name? is it "Franklin" or Francis? could you give his address. In writing me please write all letters, not postals as I do not care to have curious persons in Uncle Sam's employ know about my business. J. A. Mattocks, P. O. Box 441.

These are the basis of what was called "evidence" against Mr. H. Elizur Wright said no country Justice would hold a man for stealing a sheep on such "proof" as Hallett held him for trial. Here is one more of Comstock's "moral" "Christian" letters:—

Washington, D. C., March 18th, 1871, Dr. Selden, Dear Sir:—I am an employee of the Treasury and have got myself into trouble. I was seduced about four months ago and am now about three months gone in the family way. . . I am a poor clerk, get only sixty dollars per month, have to keep a widowed mother and crippled sister so that I send you all, in fact more than I can spare, hoping that you will send me something that will relieve me. Now dear doctor send it right away and send it by mail for I do not want any one to have a breath of suspicion about the matter. For God's sake do not disappoint a poor ruined and forsaken girl whose only relief will be suicide if you fail me. Yours faithfully, Miss Anna E. Ray.

Please send package by mail to "A. E. R." Box 260 Washington, D. C., and have it securely sealed.—*Anthony Comstock's Career of Cruelty and Crime* pp. 1028-29.

This is one of the several letters, (on Treasury note paper illegally obtained),

in his employ; had never used more than ten fictitious names; felt himself to be a Christian; had boasted of the number of his victims who died under his treatment; denied that he had hired girls to show their nude persons to him; said he never had prosecuted any one for mailing Trall's "Sexual Physiology;" claimed to be upright and honorable always, that many statements made about him were slanders on spotless character. The cross-examination was minute, protracted, thorough, leaving this distinguished exponent of ecclesiastic "morals" unmasked to the philosophic eyes of many amazed observers. David H. Gregory, Postmaster at Princeton, identified Mr. Heywood's handwriting, but could not, on cross-examination, say that the indicted "Worm" ever passed through the mail, there being no postmark on the wrapper; different wrappers were shown him, in part of which Worms were delivered to subscribers by hand, and in others sent by mail; he could not tell which wrappers had Post Office sanction and which not; said he had known Mr. H. from boyhood, lived near him and his family, saw them often and knew nothing whatever against his or their character. Here the government rested its case.

MR. HEYWOOD'S OPENING STATEMENT.

YOUR HONOR AND GENTLEMEN:—By considerate action of the Court my trial is limited to the 3d and 4th counts indicting me; if not generally apparent to-day, in the near future it will be clearly seen, by all honest students of this transaction that, not I am on trial, but parties responsible for bringing me in on alleged "second offence" are now and here arraigned at the bar of Intelligence. That such works as *Leaves of Grass* and *Cupid's Yokes* are not only *not obscene*, but *steps towards rational Health, vigorous Purity, enlightened Morals and fruitful Sobriety* is well-known to all scientists, scholars and jurists whose opinions are worthy of attention. The Dist. Attorney's charges are plausible, from the standpoint of preconceived guilt, but questionable in the light of correct opinions and recognized principles of Liberty, at whose tribunal you Gentlemen, I and all other citizens, whether governmental officers or not, must finally appear. I am "indicted for indecent publication;" so Theodore Parker was "indicted" in this very court, 28 years ago this month; Stephen S. and Abby Kelley Foster were "indicted" in your Honor's own city, Worcester; they were arraigned for "constructive treason;" I am hunted for "constructive indelicacy." There were intelligence and humane sense enough in Dist. Att'y's offices, then, not to press Parker and the Fosters to trial; ultimate events proved that the "indicted" persons wrought and suffered for *essential law and order* while their prosecuting accusers were the actual offenders. What "treason," "infidelity" and "blasphemy" were then, "indecentcy" and "obscenity" are now—catch-words used by perverted authority to help sinister Inertia suppress, by violence, criticism of established sin. While I had the honor to devote youth to anti-slavery evangelism under lead of Parker, Garrison, and the rest, more than once reading extracts from this book (*Leaves of Grass*) at Mr. Parker's desk in Music Hall, where I served as occasional preacher, my work in persisting Evolution, is none the less "pure," worthy because, in later tragic years, I am subjected to fierce persecution for discovery and proclamation of Truth.

Though the books are out of the case I am held here liable to fine and imprisonment for alleged mailing an advertisement relative to preventing conception, under

written to New Yorkers one of whom, Dr. J. Bott, Comstock snared and imprisoned two years, causing his death and ineffable suffering to his family! In June 1878 Comstock went to an ill-famed house on Green St., N. Y., hired young girls to go into a closed room, disrobe and show their nude persons to him and another alleged "man" then seized and imprisoned them for "indecent exposure!" Bennett's "Life" of Comstock, is full of revolting facts taken from records of Courts. Yet he is an approved member of an Orthodox Church, a petted "saint" in Young Men's Christian Associations, employee of successful Republican Administrations, rides free over all the mail routes of the United States, using vast power of the Federal Government for savage persecution of opinions.

a statute to suppress "obscene literature;" as syringe is not "literature" the offence alleged is the same, in a more subtle sense, as if the indictment stood on four legs instead of two. Are the words in the advertisement, the words which proclaim an opinion, assert the right and duty of women to voiced discretion in maternity, "obscene?" Was this statute ever meant for the base use it is degraded to by Mr. "Alias" Comstock, my clandestine accuser? Is not this whole proceeding (excepting of course the part of your Honor and Gentlemen who sit here as impartial jurists) *sheer, wanton, malicious persecution*? The defense has a wide field to traverse; whether the government has or has not proved its charges; the spirit and purpose of Inquisition which, during eleven years, has borne with merciless severity on editors and publishers investigating social evils; "obscenity" as a question of fact and as a question of law; whether United States authority is so weak that it must stoop to the low devices of a spy, a decoy, an accomplice-in-crime to conserve morals; whether vulgar intolerance and superstitious malice are better guides to social purity than conscientious endeavor to *know Right and realize it*; whether treachery, deceit and vulgar cruelty become honorable because masked in sacred forms of religion, and drilled to lie to get money into the "agent's" pocket for "Christ's sake;" whether ghosts of mediaeval barbarism of which vice-society pimps are "mediums" should longer haunt the sacred precincts of American law; whether guarantees of Freedom conceived in oriental inspiration, conserved in fundamental Law which assures and ennobles Order in occidental States, have quite lost liberating expression; whether illegal, irresponsible, malevolent Censorship of the Press and of Morals, whose unscrupulous savagery finds no parallel in slavocratic despotism, must permanently curse the descendants of Otis, Adams, Franklin and Jefferson; whether there is any path out of prevailing evil,—ignorance, unchastity, intemperance, destitution, squalor—other than for each to work out his or her own salvation on lines of Individual Liberty, informing Reason and mutual Integrity,—these and kindred questions I shall endeavor to examine with searching, inclusive vision, and to discuss here, under arrest, with a fullness and in a manner not displeasing to the Court, or unworthy the subtle, all-concerning and ineffably serious issues presented in this case.

Mr. Almy held with Judges Clark and Benedict that alleged "obscenity" must be decided by the jury irrespective of the spirit and purpose of authors or what "experts" may say about it; but Mr. Heywood, in order to show malicious persecution, called A. E. Giles, Lucy N. Colman of Syracuse, Benj. R. Tucker, Lydia M. Warner, Joseph P. Sheafe, Cordelia Cheney, H. M. Fisher of N. H., J. H. Swain, Rev. J. M. L. Babcock, J. W. Stillman Esq., Prof. J. H. W. Toohey, Prof. A. P. Barnes, P. A. Beaman, proprietor of the Wachusett House, and Geo. L. Bliss, of the Prospect House, townsmen and neighbors in Princeton, Lansford Harrington, farmer and old school-mate, E. B. G. Hazzen Esq., and other witnesses for defense, all of whom showed the alleged "offence" groundless, that Mr. H.'s character is unimpeachable, his work and purpose honorable,—however much they might dissent from his opinions on some points. Dr. T. Palmer of Fitchburg, Mrs. Elmer Lincoln of Raynham, E. B. McKenzie, L. S. Putnam, J. Q. A. Clifton, M. A. Warren, C. M. Nye, T. P. O'Lally, J. S. Verity, W. C. and Geo. James, Wm. B. Wright, L. D. Grovesner, N. G. Parker, Lucy, Flora and Josephine Tilton, Vesta and Hermes Heywood and many others appeared in behalf of Liberty assailed. Mr. Sheafe, Mrs. Cheney, Mr. Fisher, Messrs. Beaman and Bliss who know Mr. Heywood's family well, all explicitly disproved slanderous imputations on the Princeton Home implied by repeated raids on its hard-working, blameless occupants. Mrs. Colman, Mr. Tucker and Dr. Swain, who were present in the lower court, Nov. 23, showed that Comstock *lied* there or later; he then said, in reply to Mr. Pickering's questions, that "Ducret" and "Edwards" were the names of no real persons; and that he had used twenty or more fictitious names; the records of the court showed that, in Mr. Heywood's trial before Judge Daniel Clark, Jan. 1878, "Sexual Physiology" was indicted on

Comstock's complaint of "obscenity;" many present knew that he arrested Bennett in Nov. 1877 for mailing it; Mr. Heywood produced Dr. Foote's copy of Comstock's own book "Frauds Exposed" in which he admits and attempts to justify his "naked" outrage on Green St. Girls. Ass't Att'y Blodgett was brought up and Comstock recalled by Mr. Almy to repair a badly damaged reputation for veracity which all saw seriously needed "salvation." Among the witnesses for Mr. H.'s defense in 1878 were Elizur Wright, Rev. Dr. Bartol, Horace Seaver, Mrs. S. A. Vibbert, J. P. Mendum, Martha Williams, L. K. Joslin, S. H. Morse and many other leading exponents of intelligent character; yet Judge Clark excluded the whole of them! Judge Benedict did the same when O. B. Frothingham, A. J. Davis, Mr. Giles and a score of others appeared to vindicate Free Thought, Speech, Press and Mails assaulted in D. M. Bennett's person. Unlike Clark and Benedict who were prosecuting attorneys rather than judges, Judge Nelson's rulings were intelligent, impartial and firm for fair-play. Mr. H. called Postmaster E. S. Tobey of Boston, Rev. Minor R. Deming, Sec. Y. M. C. A., P. M. De Wolf, Liberal book-vender and Henry Chase, agent N. E. Vice Society, to show conspiracy against Civil Rights, the vice-mongers having recently "ordered" Boston booksellers to cease offering *Leaves of Grass*; Mr. Tobey conceded that he is a partisan in the illegal, infamous censorship imposed on New England by the handful of lascivious cranks who constitute the darkness-loving vice-crowd. Several times Mr. Almy tried to show that argument for abolition of marriage is "obscene," that Free-Love opinions have "immoral tendencies;" but this Clark-Benedict frenzy was promptly checked by Judge N. who held the trial to the alleged obscenity issue, as a matter of fact and of law, irrespective of other considerations so fruitful in convictions heretofore under Comstock's interpretation of the statute.

MR. HEYWOOD'S ADDRESS TO THE JURY.

YOUR HONOR AND GENTLEMEN:—In the drift of human affairs now and then an event relates persons so inseparably to general interests and destinies that individual actions become memorable for their good or ill. Your Honor, appointed to hold the scales of justice in equitable balance to weigh the issues presented, and you, Gentlemen, selected from the community at large to sit here as Jurors, by your interests and duties as Citizens, and by your oaths, your sworn deference to the Source of Truth are bound to consider, not merely what the frenzy of an accuser or the perversity of an attorney may urge, but what is Right in the Nature of Things, illustrated in the facts of this case. On trial here for no fault of my own; for alleged acts which all the world will applaud when intelligent enough to understand me; for exercising the legal, constitutional, Natural Right of every American Citizen to acquire and impart knowledge in the gravest concerns of human beings; for seeking the causes and suggesting remedies for the evils, crimes, miseries which afflict unintelligent life,—this is the "offence" alleged in the indictment which holds me now arraigned. It is a strange, an amazing event to occur here in Boston in the light of these latter days of the 19th century! This is not March 2d, 1660, two hundred and twenty-three years ago last month when, for the "crime" of having an intelligent conscience, of being a Quaker, the lifeless form of Mary Dyer swung from the old elm on yonder common; it is not 1635 when, amid the rigors of midwinter, Massachusetts

Bay-Colony Puritans banished Roger Williams who found hospitality for his divine doctrine of Soul Liberty in the savage inhabited wilderness which afterwards became the State of Rhode Island; it is not the dark reign of religio-political fanaticism which strangled spirit-mediums called witches,—twenty persons in Essex Co. alone being murdered in the three months intervening between Jan. 9th and Sept. 23d, 1692; it is not 1835 when Abolitionists were hunted for their lives in these streets and conspiring tyrannists tried to suppress anti-slavery publications as “incendiary literature;” or 1850–60 when citizens, judging the law and the facts, rose in righteous wrath against the Fugitive Slave Bill, treading the wicked statute under foot and founding the Republican Party on justly broken United States law! Oh no, Gentlemen, it is in the year of supposed civilization, 1883, right here in the seat of anti-slavery power, in the brain of the Union, the home of Winthrop, Hancock, Adams, Quincy, Everett, Webster, Sumner, Andrew and Garrison, that a Massachusetts Citizen, once before imprisoned for his Faith, but unconditionally liberated by intelligent exponents of law and morals at Washington; a reformer who, after having given his earlier years and energies to free the United States Government from the curse of chattel slavery, still seeks causes and the cure of prevailing evils for no reward but the approval of his Conscience, is put on trial for persisting in his thankless yet greatly needed work! No one even pretends that I have ever injured any body; that I have invaded the rights of person or property in the nearest or remotest sense; no citizen of my native town, and life-long residing-place, Princeton; no person in Worcester, Boston, Providence in this or other States conversant with my lectures or published writings enters this complaint; a mercenary government spy, an informer, a spotter, masked behind false names and decoy letters, an ecclesiastic inquisitor from a foreign State, a censor of opinions from steeple-pious Brooklyn comes over here to regulate Massachusetts morals! Years after his conception-abortion business was kicked out of New York courts, when his scandalous methods and practices are loathed by lawyer and bench all the way from here to St. Louis, this man is again assisted here in his diabolical work of persecuting citizens for the “misdemeanor” of knowing a little more than he does relative to physiological ethics!

Although the District Attorney, by signing this indictment, (thereby convicting and sentencing himself whatever becomes of me), has pronounced me guilty even before trial, I have reason to think that you Gentlemen, and your Honor, are strictly unbiassed in your offices here, and that you will give this case intelligent and impartial consideration. But before coming to the counts of the indictment and the so-called evidence put in by the District Attorney to support his groundless charges, I wish to indicate to you that the views and purposes of the elect of reformers called Free Lovers, of whom I have the honor to be one, are included and indorsed by accepted principles of law, order and morals. It is only because the nature and tendency of our doctrines, of our Ideas relative to morals, law, and government are misunderstood by many that prosecutions which are simply persecutions are still possible anywhere in these States, by sanction of United States Law. Not that I am bound to prove to you, or convince you of the truth of my opinions. Evangelical Christians say Unitarian and Universalist doctrines are untrue, “immoral” in their tendencies;

Roman Catholics hold all Protestants alike "infidels;" Republicans call Democrats "copperheads," "communists," "rummies;" Democrats say Republicans are black, physically and morally; yet all these citizens speak, print and mail their opinions unmolested. They do this for the good reason that 1st it is their Natural Right to have and impart knowledge to those wishing to receive it; 2d because the Federal Constitution recognizes and guarantees that right, as follows:—

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.—*Art. I. Amendments.*

The Constitution of every State has the same guarantee, our own Massachusetts Bill of Rights assuring Liberty in these cogent words:

All men are born free and equal, and have certain natural, essential, unalienable rights among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing and protecting property; in fine that of seeking and obtaining their safety and happiness. . . No subject shall be hurt, molested or restrained, in his person, liberty or estate for worshipping God in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace or obstruct others in their religious worship.—*Arts. I-II.* The Liberty of the press is essential to the security of freedom in a State; it ought not, therefore, to be restrained in this Commonwealth.—*Art. XVI.*

The Constitutional guarantees assuring religious freedom include moral freedom, for morals are a part of religion and the greater includes the less. What Luther was to the Pope in the 16th century Free Lovers are to the present unsocial system—viz. Protestants exercising our legal, constitutional, Natural Right of private judgment in morals. Not only are we not bound to prove our opinions true but it is our right to hold all prevailing opinions false, and seek the utter abolition of marriage, church, state, every extant institution. In the impressive, inspired, irresistible words of the Declaration of Independence:—

We hold these truths to be self-evident that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are Life, Liberty and the pursuit of happiness. That to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed; that when any form of government becomes destructive of these ends it is the right of the people to alter or abolish it, and to institute a new government, laying its foundations on such principles, and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness.

The Massachusetts Bill of Rights adds:—

The people alone have an incontestible, unalienable and indefeasible right to institute government; and to reform, alter or totally change the same, when their protection, safety, prosperity and happiness require it.—*Art. VII.*

It is our legal right to abolish the government itself, it is our constitutional right, by proclamation of opinions, to destroy the Constitution and improvise new and better guarantees of freedom and order if we can do it. In his indictment the District Attorney says I have hurt "the peace of the United States and their dignity." The Constitution:

Treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.—*Art. III., Sec. 3.*

An offence, against statutes, as treason against the United States, consists in an "overt act," some hurt of life or property, to protect which from invasion Daniel Webster well said is the true office of government. The District Attorney is mistaken; no crime, no offence has been committed in this case, except the crime, the repeated out-

rage of dragging me in here again without any just cause: the crime of conspiring with an official spy, with a positive fraud, a foreign invader against the liberties of Massachusetts Citizens. Had not the crime-creating, decoy-letter, woman-seducing, Religion-perverting spirit heavily obsessed officials in the lower court such an indictment as this would be no more possible than an indictment against witchcraft, or anti-slavery publications as "incendary literature." Quite too long have officials taken Comstock's ideas of law and gospel as their rule of conduct, and thereby become partisans in savage persecution of opinions he has inflicted on many innocent people. Southrons insisted that chattel slavery was the corner-stone and crowning guarantee of the Republic; while their interpretations of law prevailed the Constitution *was* what Garrison called it—"a covenant with death and an agreement with hell." The larger intelligence voiced by Spooner, Sumner, Gerrit Smith, Seward and Lincoln headed law towards emancipation. I ask you, Gentlemen, and your Honor, to interpret the statute, under which I am held here, in the interest of Liberty and Progress rather than in the spirit of savage retrogression it has hitherto served. The indictment says "unlawfully and knowingly" I have violated order; I deny it; rather I have credited Congressmen who voted for this statute with not being fools or knaves; I try to believe and act in the faith that the object of law is to assure freedom and progress,—not to suppress them. The informing principles and animating purpose of Common Law; intelligent, civilizing impulses; positive knowledge of our own rights and conscientious assertion of and respect for the equal rights of others,—all true manifestations of order and progress move citizens to be a law unto themselves, work out their own salvation, and imperatively require them to interpret statutes in favor of Progressive Enterprise rather than of repressive Inertia.

Had I invaded Citizen Rights; had I hurt person or property; had I committed adultery or fornication, forged notes, robbed a bank or shot a President, there might be some excuse for this prosecution. They do not quite say "crime" but charge misdemeanor which Burrill says "is an indictable offense not amounting to felony;" Bouvier says "The term applies to all offences for which the law has not provided a particular remedy;" Blackstone says "The word crime is made to denote offences of a deeper or more atrocious dye, while small faults and omissions of less consequence are comprised under the gentler name of misdemeanors." Noah Webster says misdemeanor means "Ill behavior; evil conduct; fault; mismanagement;" Worcester sees "An offence; misconduct; bad management." Yet whom have I offended? What real person ever charged me with misconduct even? A fictitious person, one "J. A. Mattocks," alias "George Edwards," alias "A. F. Ducret," alias "Mrs. Farnsworth," (in search of a syringe to prevent conception), alias "E. Edgewell," alias "Ella Bender," (wanting "Hooper's Female Pills,") alias "Anna E. Ray," (three months on with child wanting to secure abortion), alias "Jerry Baxter," alias "E. Semler," alias "Joseph B. Andrews," ("buyer of rare, rich and racy books and photographs,") alias "J. G. Phillips," alias "G. Brackett," alias "S. Benler," (probably father of "Miss Ella Bender" who wanted "Female Pills,") alias Anthony Comstock is the accuser by whose perverse distortion of a well-intentioned statute I

am again raided, dragged from home and chosen work and held guilty of an imaginary offence! Not clever students, useful manual laborers, recognized scientists, but a mercenary spy, skulking behind a score of aliases, seems yet to give law and morals to officials here who are responsible for this indictment! There is one *real* offence of which I am guilty; it reveals the reason and motive which have impelled this vindictive censor to dog my steps during all these inquisitorial years. Jan. 1, 1876, I wrote the following which appeared in pages 10-12, of the first edition of *Cupid's Yokes*, then being put in type:—

The facts of married and single life, one would suppose, are sufficiently startling to convince all serious-minded people of the imperative need of investigation; especially of the duty of young men and women to give religiously serious attention to the momentous issues of Sexual Science. But, on the threshold of good intent, they are met by established ignorance forbidding them to inquire. It is even thought dangerous to discuss the subject at all. In families, schools, sermons, lectures, and newspapers its candid consideration is so studiously suppressed that children and adults know nothing of it, except what they learn from their own diseased lives and imaginations, and in the filthy by-ways of society. Many noble girls and boys, whom a little knowledge from their natural guardians, *parents and teachers*, would have saved, are now, physically and morally, utter wrecks. Regarding Anthony Comstock, the real author of the "obscenity law," I am unable to entertain a favorable opinion; in a letter addressed to Hon. C. L. Merriam, M. C., dated Brooklyn, N. Y., Jan. 18, 1873, he says: "There were four publishers on the 2d of last March; *to-day three of these are in their graves, and it is charged by their friends that I worried them to death.* BE THAT AS IT MAY, I AM SURE THAT THE WORLD IS BETTER OFF WITHOUT THEM." This is clearly the spirit that lighted the fires of the Inquisition. Appointed special supervisor of the U. S. Mails; by sectarian intolerance constituted censor of the opinions of the people in their most important channel of inter-communication, he is chiefly known through his efforts to suppress newspapers and imprison editors disposed to discuss the Social Question. In Nov. 1872, he procured the arrest and imprisonment of Victoria C. Woodhull and her editorial associates for publishing a preliminary ventilation of the "Brooklyn Scandal," which afterwards filled American newspapers. Subsequently, he caused the incarceration, during seven months, of George F. Train for publishing in his newspaper (*The Train Ligue*) certain quotations from the Christian Bible, touching the same "scandal" which the implicated churches would hush up. As I write this a note from another subject of his vengeance, John A. Lant, dated Ludlow St. Jail, New York, Dec. 30, 1875, says: "Judge Benedict to-day sentenced me to imprisonment in Albany Penitentiary one year and six months. I will endeavor to send you a copy of the sentence. It is worth to us all it costs me." Comstock's relation to Mr. Lant, as to Mrs. Woodhull and Mr. Train, is that of a *religio-maniac*, whom the mistaken will of Congress and the lascivious fanaticism of the Young Men's Christian Association have empowered to use the Federal Courts to suppress free inquiry. The better sense of the American people moves to repeal the National Gag-Law which he now administers, and every interest of public and private morality demands thorough discussion of the issue which sectarian pride and intolerance now endeavor to postpone.

This is my "offence;" I was the first to move repeal of the statute and have worked for it persistently during the past seven years; pending its repeal I have sought an interpretation of the statute such as would not invade the constitutional rights of citizens or disgrace the very name of law. Since I showed him exulting in the number of publishers he had "worried to death,"—*murdered*; since the repeal of his statute would end his mischievous career, my accuser naturally insists that I shall be "removed" and Princeton "cleaned out."

The indictment which restrains me of my liberty is a mere opinion of the Dist. Attorney, the Grand Jury being to me anonymous persons into whose faces I was not permitted to look; Mr. Sanger says *Cupid's Yokes* is "so grossly obscene, lewd and lascivious that it would be offensive to the court and improper to be spread upon the records

thereof;" he made the same statement relative to Dr. Clark's "Marriage Guide," (in the case *U. S. vs. Edgar W. Jones*, Nov. 1877) but of which Judge Lowell, your Honor's predecessor, in a speech from this bench to which Mrs. Heywood and I had the pleasure of listening, said "I do not see anything at all indecent in the book. . . It does not come within the statute. . . It treats of certain subjects which I think ought to be taught in school." Mr. Jones reports that, when he submitted the book to him for examination, before putting it into his trade-list, Mr. Sanger himself, said "he could not see why it was not perfectly proper to send through the mails, and looked upon it the same as other medical works;" adding "there is but one person in the United States who will make you any trouble, and that person is Anthony Comstock of New York." Yet he afterwards signed an indictment which held the book "too obscene to be spread upon the records of this court!" He made the same false charge against Trall's *Sexual Physiology* which was pronounced unobjectionable by this court in my case five years ago, and also in Bennett's case. Mr. Sanger used the same language relative to *Cupid's Yokes* in 1877-8; yet six thousand indignant people assembled in Faneuil Hall, Hon. Elizur Wright presiding, declared the book *not* obscene; protesting citizens, from Maine to California sent their many-thousand-voiced indorsement of the Faneuil Hall verdict up to Washington; President Hayes and Atto'y Gen. Devens said Faneuil Hall was right and Mr. Sanger wrong; I was unconditionally released, Gen. Devens giving as one of the reasons why he and President Hayes favored it that they did not think *Cupid's Yokes* was an obscene book; this was his language:—

"I am aware that there may be much difference of opinion upon the subject, and do not confound it with those obscene publications the effect and object of which is to excite the imagination and inflame the passions."—*Letter to Hon. Elizur Wright, Jan. 13th, 1879.*

Yet in the light of these facts, four years after the highest law officer of the government had pronounced the book *maillable*, Mr. Sanger signs and sends up here the old false statement! I leave it to you, Gentlemen, and your Honor, to decide what the opinion of an Attorney is worth who persists in such a charge, in the light of facts and events refuting it.

The 3d and 4th counts of Mr. Sanger's indictment are a kind of double-barreled shot at preventing conception, a matter of domestic jurisprudence somewhat new to courts, but on which women have minds as to what uses their bodies may or may not be put to, by men,—the desires and opinions of obscenists to the contrary notwithstanding. The advertisement of the "Comstock Syringe" which appeared in only three issues of *THE WORD*,—Sept., Oct. and Nov.,—had one sole, exclusive purpose viz.: the proclamation of an opinion, the assertion of Woman's Natural Right to ownership of and control over her own body-self,—a right inseparable from Woman's intelligent existence; a right unquestionable, precious, inalienable, real—beyond words to express; and yet a right on which Mr. Sanger's construction of the statute and my arraignment here constitute an invasive, revolting, inhuman, murderous assault. Woman's right to discretion in maternity; her imperatively serious duty to conceive, carry and deliver worthy children,—this issue having been brought to the front by the advertisement in that form, it was withdrawn and the following appeared in *Dec. WORD*, instead:—

"The Vaginal Syringe for Cleansing Purposes. . . It is the Natural Right and may be the positive duty of women to prevent conception." In explanation of this act the following editorial note of the change was made in the same issue:—

"To name a really good thing 'Comstock' has a sly, sinister, wily look, indicating vicious purpose; in deference to its N. Y. venders, who gave it that name, the Publishers of THE WORD inserted an advertisement of 'The Comstock Syringe' which will hereafter appear as 'The Vaginal Syringe;' for its intelligent, humane and worthy mission should no longer be libelled by forced association with the pious scamp who thinks Congress gives him legal right of way to and control over every American Woman's Womb."

I repeat, the object of this advertisement is to utter an opinion, assert a principle; did reformers seek money they would not be given to advocacy of ideas which keep them oscillating between prison and poor-house; which don't allow them to say "When I was in Europe," but does enable them to say "When I was in Jail;" they would not publish little poverty assuring newspapers in Princeton, Massachusetts, where THE AIR is electric with intuitive, conscientious endeavor; they would rather go to New York where they say "one must lie and cheat like the devil in order to get an honest living;" where Dea. Colgate, President of the Vice Society, gets rich making and selling vasceline for preventing conception;* where other "pure" Shylocks make and vend tons of syringes to prevent conception, yet are unmolested, well-beloved fellow members of Brooklyn Churches with Comstock, Colgate and Benedict! Though the persecuted syringe is "the only good thing Comstock's name was ever wedded to" still I favor divorce in this case and have no interest in it beyond the idea, the invaded right it proclaims. The ultimate purpose of Comstockians is to suppress everything "designed or intended to prevent conception"—anything which may be used by woman to frustrate the designs of man on her person. Those I represent assert the natural equality of the sexes in social relations; obscenists insist on absolute male supremacy—to be imposed by ball and bayonet, lead and iron if need be.† Do you blame women for resenting the barbarous outrage? Is there a man of sense living who believes the statute was meant for the revolting use all womanly women justly denounce? Like a tooth brush or towel the syringe is for cleanliness, health, not for vicious or criminal purposes. These artificial means of preventing conception are not generally patronized by Free Lovers. Beyond what they invest in child-production men should turn their life-element, their semen into physical, mental, moral power. Since Comstockism makes male will, passion and power absolute to impose conception, I stand with women to resent it.‡ The man who would legislate to choke a woman's va-

* Mr. Heywood offered in evidence a tract published and circulated by Colgate and Co. in which vasceline is recommended as a means of preventing conception! He also produced medical Journals and a United States Postal Guide in which Vaginal Syringes are offered at wholesale and retail by N. Y. business firms, never molested by Comstock!

† Mr. Heywood here quoted from a jury of sixteen women,—Mrs. E. D. Slenker, Juliet H. Severance, Lois Waishroker, Sarah Elizabeth Holmes, Mrs. H. S. Lake, Rachel Campbell, Mrs. Sadie Rice, Mrs. S. J. Lenont, Elizabeth M. F. Denton, Angela T. Heywood, Frances A. Stuart, Mary E. Tillotson, Ellen B. Harmon, Mrs. M. E. Egli, Dody E. Beauchamp and Mrs. A. P. Joyce; ladies of representative character, none of them special advocates of preventatives but all voice resolute indignation at vice-society effort to supervise maternal function by act of Congress.

‡ Invasive heism, arbitrary repressive ecclesiasticism which hitherto have subjected woman to man's desires now find her insurgent. Woman's Rights, declared by Mrs. Stanton, Lucretia Mott and others at Seneca Falls, N. Y., 1848, now seconded by the Massachusetts Democracy led by Gen. Butler, are realized in woman's growing im-

gina with semen, who would force a woman to retain his seed, bear children when her own reason and conscience oppose it, would way-lay her, seize her by the throat and rape her person. I do not *prescribe* vaginal syringes; that is woman's affair not mine; but her right to limit the number of children she will bear is unquestionable as her right to walk, eat, breathe or be still. Of the seven clefts, apertures, openings in woman's body the vagina is one; who says it may not need cleansing as well as the ear, or the nostril? Mr. Sanger says "unlawfully and knowingly" I have violated law; I deny it most emphatically, in the third and fourth counts as in the first and second charges in his heavily-loaded, back-kicking government-gun. As to whether this syringe ever has been, or ever can be used for unlawful, criminal purposes that is for the government not for me to prove. The Dist. Att'y can call in Physicians, experts and have that matter decided right here. While experimentally, personally I know nothing of its uses many intelligent, reliable citizens highly recommend it to promote purity and health.*

It is woman's right to prevent conception if she chooses to do so; you gentlemen will not traverse that right; as to whether this syringe will produce that result and that it is not useful or necessary for sanitary or medical purposes it is for the government to prove. Professional examination of the utensil will clearly establish its legitimate and necessarily innocent use. Thousands of physicians and druggists in the States declare its use invaluable, indispensable in the treatment of female diseases and for applying local remedies to preserve personal health and purity. In Washington, D. C., in close fellowship with Congress, the White House and the Post Office Department is published a newspaper called *The Alpha*; it is edited and published by conservative women representing the Moral Education societies in

pulse to be *mistress of her own Person*; in the arrival of Natural Equity of the sexes in social relations. Before, "the Heywood case" meant the right of private judgment in morals; Cupid's Yokes transcended vindictive repression on that line. Now, not books merely, but a syringe is in the fight; *the will of man to impose vs. the Right of Woman to prevent conception is the issue*. The giddy, evasive ways, in which the sexes have, hitherto, met must turn to serious facing of facts. Does not Nature give to woman and install her in the right of way to and from her own womb? Shall Heism continue to be imperatively absolute in coition? Should not Sheism have her say also? Shall we submit to the loathsome impertinence which makes Anthony Comstock inspector and supervisor of American women's wombs? This womb-syringe question is to the North what the negro question was to the South; as Mr. Heywood stood beside the slave demanding his liberation, so now he voices the emancipation of woman from sensual thralldom. Congressmen vote our persons sluice-ways for irresponsible indulgence, empower Comstock to search bureaus and closets,—lest by means of a syringe, or otherwise, we resent the outrage. It is not we that lift the Syringe Question to public view, but the U. S. Government, by ill-luck of allowing itself to become basely subservient to ecclesiastic, church intrusion. By nature and all legislation hitherto, woman's womb is her own private property; Republican Congresses and Courts, (unknowingly let us try to think), now empower one man not merely to search houses as they do in Russia, but to enter bed-chambers to look for semen in woman's person! As the fugitive slave-bill made all humane Northrons friendly to its fleeing victims so the revolting, devilish purpose of "obscenists" calls Intelligence to Woman's side asserting her Natural Right to ownership and control of her person. Because Free Lovers, by grace of self-knowledge and control, have no special use for artificial means of preventing conception does Fate bid them now defend a syringe, forbidden to women by statute as a means of saying "No" to unwelcome male advances.—*Angela T. Heywood*.

* Mr. Heywood read testimonials from several representative Physicians and women indorsing the syringe; a mother purchased one and sent it to her daughter in Mich. as a Christmas present. A Boston lady says "If Comstock's mother had had a syringe and used it judiciously the world would have been saved much trouble!" Mrs. Colman, recalled to the witness stand identified the Comstock Syringe which went in evidence to justify itself.

that and other leading cities of the union; in its Dec. issue a venerable matron wrote, "Maria, I don't know any other way than using a velvet sponge to protect yourself from impregnation." I am told, by reliable informants, that in France and America sponge with a string attached is in prevailing use to prevent conception; druggists, everywhere, vend sponges; are they prosecuted therefor, even though each piece of sponge sold has a string attached? Women say that chilling water, properly applied, will prevent conception; is it, therefore, "criminal intent or design" to have water near by? Shaker societies widely, defiantly organize prevention of conception in non-association of the sexes; * Ann Lee their founder, the Manchester factory girl and potent Spirit Medium originated this "treason;" are the Shakers, Elder Evans and Mother Ann therefore criminal in "design and intent?"

Many years the Co-operative Publishing Co. have kept in stock and constantly sold two books, one entitled "Why Not?" the other "Is It I?" written by Dr. H. R. Storer, Prof. in Harvard College, published by Lee and Shepard of Boston; these books are an earnest, scholarly and convincing exposure of the evils and prevalence of abortion. Thirteen years ago I wrote this:—

Child murder is comparatively rare in poor countries like Ireland and among laboring people of all nations; while in Paris and New York, by the "upper" classes, it is increasingly practiced. Mothers often provoke abortion to preserve their physical beauty, and escape from the "home sphere" into the delirious whirl of fashionable life. Dr. Storer shows that the practice of abortion, by the American women of Massachusetts and New York, is so limiting the increase of population that it is maintained chiefly by foreign immigration. The number and success of abortionists is notorious; hardly a newspaper that does not contain their open and printed advertisements, or a drug store whose shelves are not crowded with nostrums publicly and unblushingly displayed. The feminine instinct of these "womanly" women—not strong-minded, and never seen in suffrage conventions—is so perverted that they seem unconscious of the crime to themselves and society they are guilty of; and in selfish egotism rival even those of the most luxurious cities of Europe and Asia, who, subsisting on fugitive attachments, find in marriage a convenient screen behind which to shelter their indiscretions. Our critics must cease this wise nonsense which says to woman "Be Good," and makes man the sample piece of what she is to copy from. It is high time that the one most deeply interested in marriage and reproduction should be consulted as a responsible partner; that the maker of men should have free choice of materials, methods and conditions wherewith to perfect her wondrous work.—*Uncivil Liberty* pp 21-2. No one can read Dr. Storer's startling, painful pages without amazement at the extent to which infanticide, child-murder prevails in what is called "good society." The question every lover of humankind asks is "Why is abortion so general, what is the cause of it and what is the remedy?" An elderly physician, whose name commands respect wherever he is known, recently wrote me the following:—

Every city, town, village has its professional abortionist patronized by young girls, married and unmarried women, multitudes of whom die, the cause of their death being rarely known outside the circle of near relatives. Regular physicians do this business in cases where they feel certain that the death of the parents would follow the death or exposure of a daughter. A doctor in one of the cape towns told a medical friend of mine that his minister, in the excitement of revival, got a young lady of his church with child and proposed to him to procure an abortion. He refused to do it;

* There are many modes of preventing conception, but the most effectual that we have ever heard of is for the sexes not to come together. If, then, prevention is wicked and unlawful, this is the most wicked of all; if Comstock is right every person or family guilty of discretion should be sent to prison during life. This Comstock law, making it a state prison crime to sell or use anything for the prevention of conception, is an exceedingly great outrage, and shows the vast danger of having the enactment of our laws depend in any way upon a meddlesome, unprincipled, ecclesiastical society. This law should no longer be on the statute books; fathers and mothers should exercise the right of determining the size of their families.—*D. M. Bennett.*

but the parents were his patients; most estimable people who would be killed by the death or exposure of their daughter and he did it but *but took no pay for it*. A married lady of my acquaintance (a member of Park St. Church, Boston, when Mr. Stone was pastor,) the mother of four children was operated upon by an abortionist, (she said she could have been tracked by the blood from his office to her home) and survived. Another married lady *operated on herself*; was very ill for several months, but went out in a storm before recovery, and died. A young lady member of an Orthodox Church, said to have been seduced by her Sabbath School Superintendent was operated upon by an abortionist and died, her pastor, ignorant of the cause of her death gave a glowing account of her religious experience. A few years ago I was in the habit of visiting a medical friend in a town of some 25 000 people. In the same building with him was an abortionist; I never passed his office, in warm weather when his door was open, without seeing several closely veiled ladies waiting their turn. My friend said his neighbor was always busy with these cases, though he had been twice tried for his life. I have stood by the bed-side of a dying man whose daughter was being delivered of an illegitimate child *while he was dying*; his wife dying a few days afterwards from the same cause. These things happen everywhere, especially and more frequently in what is called "good society;" these domestic tragedies would be far more frequent if preventatives of conception could be suppressed; their use tends to destroy the trade of the abortionist with all the suffering and death which follow it; by their use the prudent and the wealthy keep their families small; their abandonment would leave the victims of misplaced confidence, the inexperienced, the loving, the trusting no hope of relief except in suicide, or the needle of the abortionist. *Women will have children*. The late Dr. Walter Clanning, Prof. of midwifery in Harvard College, after describing a malformed pelvis, where the mother could only be delivered with instruments of a dead child, after great laceration of the parts and terrible suffering, said: "You will say, gentlemen, that, after such an operation as I have described, a woman would never have a second child. Gentlemen, *this woman had several children all delivered by just such an operation as I have described*. I do not understand *how* it can be, but no matter what the risk or the suffering, *women will have children*." I have been several times solicited to produce abortion upon married women in good circumstances with families but have always refused. On the shady side of three score and ten I have had three near relatives, medical men, and been intimate with several others; and I know that few men, outside of the medical profession, have any conception of the suffering that would follow in the present state of society could the syringe be suppressed.

My accuser comes over from New York to impose "purity" on us here by violence. Have New Yorkers any purity to spare? Confirming the startling facts given in the letter I have just read to you let us see to what extent wealthy N. Y. churches practice abortion or use preventatives of conception. In the N. A. Review, Feb. 1883, page 149, Bishop Coxe, a prominent Episcopalian divine says:—

"I have heretofore warned my flock against the blood guiltiness of infanticide. . . The world itself is beginning to be terrified by the practical results of the sacrifices to Moloch which defile our land. There are scientific and statistical documents before the people which fully sustain my remonstrances." On the same page Mr. J. W. Leveridge for forty years prominent in Sunday School work and now Secretary of the Sunday School Association of New York County says: "They (the churches) never report so many scholars for the church and so many for chapels and missions, but so many in the lump. The reason for this is, in plain English, that they are ashamed of themselves. There are lots of these big churches on Broadway and Fifth Avenue, with from eight to fifteen hundred members who cannot show one hundred Sunday School scholars. Why is this? Well I guess rich people have a better quit having children. And even middle class Christians don't seem to do much better. When I was a younger man than I am now, our Sunday-schools were largely made up of the children of church members. Now the children of Christian parents are awfully few and far between."— *This was said to a reporter of the N. Y. Times and printed by Bishop B. J. McQuaid in his article on "The Decay of Protestantism."*

You see, gentlemen, that these wealthy N. Y. church members, who pay Comstock \$4,000 a year to export "virtue" destroy their own children by abortion, infanticide, or else they prevent conception! "They all do it" and had better call home their hound. I do not think the world are all saints or the church are all sinners; I do not stand here to justify abortion, infanticide, or even preventing conception by hurtful, vicious or criminal methods; but I insist on the natural, constitutional right, the imperatively religious duty of women to intelligently consider all the grave issues involved in Love and Parentage,

and to do what seems to them wisely best, at their own risk and cost. Had not this ineffably sacred right of woman been invasively, impudently, murderously denied, by Comstock and his backers, the publishers of *THE WORD* never would have thought of advertising the syringe.* Preventing conception is something far different from abortion; it tends to destroy the trade of abortionists; it does not take life but removes waste matter. You, Gentlemen, and your Honor, well know what a wealth of reproductive power men have; what numbers, the numberless children a strong, healthy, robust, man may beget. What is done with all this exuberant, potential overflowing life-element men carry? Does every seed of corn planted come up? Do men ask, expect, much less insist that women be impregnated every time they entertain them sexually? Of course they do not. But what becomes of the waste matter? Women remove it. After men give it to them it is women's property, to retain or cast away as they, the women think best. Show me the man living who is brute, fool or knave enough to insist that his wife shall have a child when she don't want one! N. Y. church members, Comstock's fellow-male Christians do not, surely! They get what they want but take care that the seed does not germinate; that the children do not appear in Sunday school or elsewhere. Why then imprison me again for insisting that these very grave matters be intelligently, seriously considered?

Through the door opened by the syringe comes into this case the momentous question of population. Shall excessive increase be checked only by the desolating ravages of war, pestilence, poverty and starvation or shall Science come in to avert disaster by beneficent provision? This is the pregnant issue, the imperatively serious question with which the 3d and 4th counts of this indictment confront you Gentlemen, and your Honor. Listen to these witnesses:—

There is no exception to the rule that every organic being naturally increases at so high a rate that, if not destroyed, the earth would soon be covered with the progeny of a single pair. Even the slow-breeding man has doubled in twenty five years, and, at this rate, in a few thousand years, there would literally not be standing room for his progeny.—*Charles Darwin.*

The power of increase of the human species may be regarded as infinite; at the lowest estimate each generation may be double the number of the generation which preceded it. There is no species of vegetable or animal, which, if the earth were entirely abandoned to it, and the things on which it feeds, would not in a small number of years overspread every region of the globe of which the climate was compatible with its existence.—*John Stuart Mill.*

Ireland should serve to warn us of the terrible misfortunes brought upon a country by an undue increase of population. At the beginning of the 18th century the population there was about two millions; the two millions had grown into eight millions in 1847. The country was so densely populated that multitudes of people could only obtain the barest subsistence; yet the people went on marrying with utter improvidence, the priests and all the influences of religion encouraging early marriages. When the potato, the staple food of the people was diseased it was found that there were more people in the country than could be fed.—*Prof. Fawcett.*

Prof. Fawcett when he wrote this evidently had not considered the effect of land monopoly on population and poverty; he needs to go to school to Davitt and Parnell on that subject. But he is right relative to the necessity of intelligent limitation of increase which we are considering. The uncounted, overflowing millions of China perishing in inopportunities, destitution and squalor furnish a still more appalling ex-

* Mrs. Warner and Mrs. Colman testified in defense of Mr. H. that it is the deeply serious conviction of multitudes of intelligent and conscientious women that the use of preventatives is infinitely preferable to abortion. But Free Lovers say "Of two evils choose neither;" waste, suffering, disaster will be unknown when Intelligent Mutualism prevails in Sexuality.

ample of the imperative necessity of conscientious discretion in the reproduction of the human species. The condition of China is a kin to that of England in 1258 when 15,000 people in London alone starved to death; in France, 1348, one-third of the whole population perished from the same cause; in England, 1506-7, the sweating sickness slew half the inhabitants of the large towns and depopulated Oxford; in London, 1603-4, the plague killed 30,578 people; 1631-5 it destroyed 68,596; in Naples, 1556, 400,000 died; in Egypt, 1792, 800,000. Wars, epidemics, famines, are inhuman, merciless checks which irrational necessity puts on unintelligent increase of population. Free Lovers move amendment of these horrible conditions. In Cupid's Yokes page twenty, I wrote this:—

Since the increase of population outruns increase in means of subsistence, Malthus urged that, unless people refuse to marry, or defer it till middle life there will be too many consumers for the food grown; and that, if they do not heed this admonition, Nature sternly represses excessive increase of population, "by the ghastly agencies of war, pestilence, and famine." Lysurgus favored destroying imperfect and sickly children; Plato, in his imaginative Republic, advises a similar weeding-out process; and, thinking sexual desire "a most enervating and filthy cheat," Shakerism endeavors to exterminate it—three popular devices to govern propagation and Population: 1. The Shaker-Malthus method, which forbids sexual intercourse; 2. The abortion-child-murder method, which destroys life before or after birth; 3. The French Owen method of barriers, withdrawal, etc., to arrest the process in its course;—but, since they are either unnatural, injurious, or offensive, all these devices are rejected by Free Lovers. Extending the domain of reason and self-control over the whole human system, and believing that all things work together for the good of those that love good, they not only believe, but *know*, that, under self-discipline, "every organ or faculty in the body works invariably, in all cases, and at all times, for the good of the whole."

I know, Gentlemen, the question has already risen in your minds: If government does not forbid preventatives will not indulgence, excess, debauchery result? They may unless, in the words of Cupid's Yokes, "the reproductive instinct be inspired by intelligence and placed under the dominion of the will." But repression settles nothing, cures nothing; it widens, deepens infection, fatalizes the disease. Do Comstock statutes, anti-polygamy bills, prohibitory-liquor laws check libertinism, prostitution in Boston, New York or Washington? Does imprisoning Free Lovers remove out-crying social evils they unmask? Do you head off earthquakes by locking up geologists who warn you of their coming? Would snow and rain storms not burst on us if we sent weather-prophets to Dedham Jail? Does deriding Gov. Butler lessen the number of infants skulls which pave the hells of Tewksbury almshouse? We must *appeal the social-evil case to Reason, Conscience; to the moral order, the fruitful, felicitous harmony of enlightened Being.* We must lift people out of the slough of sensualism, out of the lower stories of indulgence into Heart, Brain,—into thoughtful endeavor to know their rights and duties, and dare maintain them. Hence we insist on Free Speech, Free Press and Free Mails *for the proclamation of opinions relative to a syringe as well as for tracts, books, newspapers on all other subjects of human interest.* I believe in peace principles; the costliest struggle of my life was in 1861 when I dissented from my then hated and despised, but now everywhere honored friends, Garrison and Phillips, refusing to favor war even to secure emancipation; practically a Non-resistant I would not use arms to save my own life from assault; yet, if a law was enacted forbidding citizens to keep and bear arms I should certainly defend their right to buy and use rifles. Women have no special constitutional provision relative to their persons such as men have enabling them to keep and bear arms; but in the manhood of citizens, in your hearts, Gentlemen, rises the irresisti-

ble impulse to stand by woman asserting her right to discretion in maternity. It is the social side of woman suffrage; in indorsing woman's rights the Mass'tts Democracy indorse the syringe; Comstock's assault on woman makes an ordinary household utensil an emblem of liberation. As Constantine put the Cross, that is the penis on his banner saying "By this sign, Conquer," so by the necessary accompaniment of every lady's toilet, a syringe, Woman may achieve Liberty.

Obscenity, as a question of fact, brings this case into the domain of morals, giving it religio-political significance; the famous English Bishop Butler says, "Moral duties rise out of the Nature of the case itself, prior to external commands;" a person, an individual is the primary and ultimate fact in this wilderness of pronoun Is, called society. Rev. Timothy Fuller, Margaret Fuller's grandfather and the first clergyman of Princeton, President Garfield's great-grandfather who was a native of my neighbor town of Westminster, and Elbridge Gerry of Newburyport, in the Mass'tts Convention to ratify the Federal Constitution, voted to reject it because of its pro-slavery clauses; because it did not recognize the source of morals, persons, irrespective of race or color,—Mr. Garfield inducing his fellow-townsmen of Westminster to vote unanimously this clear-headed reason for their action:

"It is our opinion that no constitution whatever ought to be established till previously thereto a bill of rights be set forth and the constitution be framed therefrom, so that the lowest capacity may be able to determine his natural rights and judge of the equitableness of the constitution thereby."

Roger Williams, "a young minister, godly and zealous, with his wife Mary" landed in Boston Feb. 5, 1631; prophet, seer, martyr, and the first democrat he put the idea of personal sanctity I stand for into the town of Providence, which he founded, and into the first Baptist Church in America which he organized there, but from which he soon withdrew because of its disobedience to the heavenly vision which guided his life. He said "it was not lawful to require one to swear or pray; for both are forms of worship; that the power of the civil magistrate extends only to the bodies, goods and outward state of men, and not to their souls and consciences;" that "magistrates should behave like the captain of a ship who let his passengers have any kind of religious meeting they please on board, so long as they keep the peace and do not quarrel." These first principles of religio-civil liberty tersely stated and bravely incarnated by great-grandfather Garfield, Minister Fuller, lawyer Gerry and the divine Williams determine social freedom and dissipate the obscenity delusion in advance. My venerable bondsman, Elizur Wright, well says "If there is such a thing as obscenity it consists in lack of respect for the sexual nature." It originates in man's alleged ownership of and trade in woman's person; it resides in rude, cheap, vulgar, false, ungentlemanly ideas of woman's generative maternal nature. There is nothing obscene but unclean thought,—mental sickness. Indecency, vulgarity, diseased sexual organs, syphilis, gonorrhœa call loudly for treatment, cure,—not for decoy, falsehood, secrecy, suppression. Repress, drive in physical disease and the patient dies; call it out, expel it and the person lives. In nature *health* is contagious, catching; while disease is cast out, perishes when native forces act. This obscenity scare, of which Comstock is high-priest and lawgiver, prevailed awhile, was supposed to have backbone because public opinion did not say no to it. Gentlemen, in this mat-

ter world what is better than the human body? St. Paul said "Ye are the temple of God. . . The temple of God is holy which temple ye are."—*1. Cor.* 3, 16–17. Peter said "What God hath cleansed that call not thou common. . . God hath showed me that I should not call any man common or unclean."—*Acts* 10, 15–28. The human body is naturally whole, good in all its parts; if a man is imbecile, impotent, unable to beget a child,—what sensible woman wants to be yoked by Cupid, by magistrate or God with him,—with a man having no passion, no physical heat, no generative power? It was a clean, whole, handsome, sexually potent, mental spiritual, yet physically well-endowed gentleman Whitman had in mind when he wrote the "indictor" poems. A prominent business man of Boston, who is also a scholar, writer, speaker and a life-long reformer, reading twice over the two poems, "To A Common Prostitute" and "A Woman Waits for Me," printed on this now famous slip "The Word Extra" looked up to his wife and exclaimed "What is the matter with that, that's the way 'tis!" The old king said if he had been present at the begetting of things he could have given useful suggestions to God, the creator! Even if Comstock *could*, by act of Congress, decoy letters, or imprisonment of "handsomer men" than himself have babes born with clothes on would that improve Nature? God said of Adam and Eve, before vice-societies infected them with false-modesty and secret-disease "They were both naked and were not ashamed."—*Gen.* 2, 25; "Moses saw people were naked, for Aaron (the high-priest, the Rev. Joseph Cook, the Rev. Dr. Crosby of the day) had made them naked"—*Exodus* 32, 25. "Naked came I out of my mother's womb,"—*Job* 1, 21. "Every male that openeth the womb shall be called holy to the Lord."—*Luke* 2, 23. "All things are naked and open unto the eyes of him with whom we have to do."—*Heb.* 3, 13. Gentlemen, if there is anything better on earth than the body of man it is the body of woman, your mother, sister, daughter, wife or lady-love—,

"A being breathing thoughtful breath,
A traveller between life and death;
The reason firm, the temperate will,
Endurance, foresight, strength and skill;
A perfect woman nobly planned,
To warn, to comfort and command,"—

what object on earth or in Air surer to wake all the potent beneficence of man's being than woman's person! Accursed is the man with idiotic indiscretion who is ashamed of his passion for woman! What emasculated fool is this who, as the flame of manly heat goes up through his body house comes down in charred ruins on penitent knees to apologize for and be ashamed of his passional vigor, his generative rectitude! A bank director standing high and well also in church, politics and business said to me that reading these two poems in "The Word Extra" gave him generative erection! Supposing they did, are the poems bad on that account? Did not Whitman, when he wrote these poems, know good, fruitful nature in this man and paint him worthily? If reading about creative power in trade and commerce made his bank-stock rise in value would my man be ashamed of it as "obscene?" Gentlemen, I am amazed at the shame-facedness with which some men meet their own nature; at their witless weakness, if not perverse puerility in the presence of the divine potencies of these our body forms! I marvel at the idiotic pretense of "obscenity" which attempts to forbid, by statute, citizens becoming wisely

informed of, and well-trained in the creative, human energies which people Earth, and quicken civilizing, redeeming tendencies! So felt Walt Whitman when he wrote in *Leaves of Grass*,—

I know that the hand of God is the promise of my own,
I know that the spirit of God is the brother of my own, . .
For me lips that have smiled, eyes that have shed tears;
For me children and begetters of children. . .
I am the poet of the woman the same as of the man,
And I say it is as great to be a woman as to be a man,
And I say there is nothing greater than the mother of men. . .
I find letters from God dropped in the street and every one is signed by God's name. . .
Ages, precedents, poems have long been accumulating, undirected materials;
America brings baidlers, and brings its own styles. . .
Their Presidents shall not be their common referees so much as their poets shall. . .
This is not only one man,—he is the father of those who shall be fathers in their turn;
In him the start of populous states and rich republics,
Of him countless immortal lives with countless embodiments and enjoyments. . .
Welcome is every organ and attribute of me, and of any man hearty and clean.
Not an inch, nor a particle of an inch, is vile, and none shall be less familiar than the
Human bodies are words, myriads of words; [rest.
In the best poems reappears the body, man's or woman's, well-shaped, natural, gay. . .
Every part able, active, receptive, without shame or need of shame.

But, Gentlemen, this cry of "obscenity" ill-becomes the church, professors of Christianity whose every religious symbol originated in the sexual organs of men and women. The historic fact, well-known to scholars and scientists, a fact in proof of which I could pile this table high with books brought right down here from the Athenæum Library on Beacon St.; a fact recorded in Appleton's *American Encyclopedia*, Vol. v. p. 512, that the Christian Cross was suggested by the male generative organ, "its most ancient use being probably a phallic emblem the type of the active principle of life." Imman's "Ancient Faiths," Higgin's "Anacalypsis" and his "Celtic Druids" Payne Knight's "Worship of Priapus," Layard's "Nineveh" and many other works disclose in the twilight-dawn of human society that the cross, as an ecclesiastic symbol and a sign of devotion, in structure and use denotes *generation and regeneration*. Since "to the power of reproduction is allied the acme of physical bliss" and moral sublimity the generative-sexual function naturally tinged and swayed religious inspiration in India, Egypt, among the Buddhists, Babylonians, Phoenicians, Assyrians, the Hebrews, the Aztecs and other ancient tribes. The Chaldees "believed in a Celestial Virgin who had purity of body, loveliness of form and tenderness of person; and to whom the erring sinner could appeal with more chance of success than to a stern father. Portrayed with a child in her arms, her full womb teeming with blessings," everything that could remind votaries of attractive feminine power was utilized in her worship. The Phallus and Linga or Lingham imaged the male organ, the penis; the Yoni or Unit the female organ, the womb. Dr. Imman says that these organs were portrayed on the walls of ancient temples.—*Ezekiel* 23, 14. The genitals of male captives, like scalps by American Indians, were taken and sold or sacrificed as trophies. King Saul offered to sell his daughter in marriage for 100 Philistine foreskins; David accepted the offer but doubled the number, slew 200 men, brought their genitals and "gave them in full tale to the king that he might be his son-in-law; and Saul gave him Michal his daughter to wife.—*Sam.* 18, 25–27. See also 2 *Kings* 20, 18; *Isa.* 39, 7.

Another primitive custom in the patriarchal age was that the one who took the oath put his hand under thigh of the adjurer (*Gen.* 24, 2 and 47, 29). This practice evidently arose from the fact that the genital member, which is meant by the euphemic

expression, *thigh*, was regarded as the most sacred part of the body, being the symbol of union in the tenderest relations of matrimonial life, the seat whence all issue proceeds, and the perpetuity so much coveted by the ancients. Compare *Gen.* 46, 26; *Exod.* 1, 5; *Judg.* 8, 30. Hence the creative organ became the symbol of the *Creator* and object of worship among all nations of antiquity. It was for this reason that God claimed it as a sign of the covenant between himself and his chosen people in the rite of circumcision. Nothing therefore could render the oath more solemn in those days than touching the symbol of creation, the sign of the covenant and the source of that issue who may at any future period avenge the breaking a compact made by their progenitor.—*Dr. Ginsburg in Killo's Cyclopaedia.*

Abraham, the father of the faithful, himself a Chaldee revered the phallus or penis as an emblem of the Creator. My brave young friend John A. Lant, of New York, was Comstocked 18 months in Albany Penitentiary for printing in his paper, *The Toledo Sun*, a letter from Geo. Francis Train in which he said Brooklyn Christians, Comstock himself and his reverend pastor worship the penis as Jehovah. It is a fact in history which I have just verified to you from unquestionably authentic records. The idea of the Trinity originated in the same way, the male privy member and the adjacent right and left testes making the Triad or triune Creator, the penis. Benjamin signifies "son of my right side," that is sprung from seed in the right testicle. In *Psa.* 127, 3 David says "Children are an heritage of the Lord, and the fruit of the womb is his reward;" that is the serving mother brings children to her Lord, their sire. The figleaf, having three lobes to it, became a symbol of the triad or penis:—

The female organs of generation were revered as symbols of the generative powers of Nature or of matter, as those of the male were of the generative powers of God.—*Worship of Priapus* p. 28.

Mary is a compound word composed of male and female principles, meaning a union of father and mother forces; the Celestial Mother, "God is love" was a tenet of faith 2,000 years before the accepted Virgin Mary now adored was born. Palm Sunday, the Communion Sacrament, Trinity Sunday, the Garden of Eden, Fish and Good Friday,—these and many other religio-incidents symbolize sexuality. The cross, on which Jesus was executed, was used by the Romans to kill what they deemed their worst criminals because, as they said to a convict, "You are too wicked to live and shall be put out of life by a means emblematical of what brought you into life;" hence they crucified him on a cross, a penis. As I have shown you, Abraham required the adjurer, making oath to touch his thigh, his penis; hence the phrase "So help me God" originally meant "so help me the creative forces of life, the penis." The idea of God now meaning a cluster of attributes, a flock of truths, Essential Intelligence, Positive Law, the It of things, originated in the male generative organ, the Jehovah penis.

In Hindu myths the tortoise was the form taken by Vishnu in his second Incarnation; it was held sacred to Venus, worshipped because it "represents, in extended head and neck the acting *linga*—virile member, a sustainer of creation, a symbol of generation, a renewer of life, a supporter of the world" (and this is probably why Orientals paint the earth resting on a tortoise) "a type of omnipotence pointing to immortal felicity."

The expression "Mother Earth" has a sexual significance,—clefts, chasms, natural fruitfulness being typical of the maternal offices of woman; Druidical structures in the British Islands and India, Roman temples and passages in the Bible prove this an historic fact. I am here on trial by the United States government for alleged "obscenity;" behind government is the physical force the martial prowess which created it; behind the State House is Bunker Hill; behind Washington are Valley Forge and Yorktown. On birth-spots of national life

or individual heroism rise monuments to signalize, commemorate personal and collective achievement, expressive of our patriotic and religious gratitude therefor. It is a well-known historic fact, Gentlemen, that the idea and structure of monuments originated in male-generative power; the impressive, speaking shaft on Bunker Hill, forever vocal with Webster's divine, immortal orations, gives lessons of valor and erectitude which obscurists, who dog my steps, may well study. And when we consider the fact that, after men failed or faltered in its erection, the women came forward and raised money to complete that magnificent structure, its history, its national and *associative* meaning becomes profoundly suggestive.* Relative to art and literature:—

In the arena of Mechanics, Socket and Pivot are the law, the fact of action; the socket is soft, receptive iron, the pivot hard, projective; through realms of metals this analysis takes us into vegetable kingdoms where we find stamen and pistil, pollen and ovule with all their prolific uses and destinies. Why not make voyages of discovery into our body-selves, study attractive, fruitful lessons in Moral, Sexual Physiology? Why blush or be shamefaced in Stirpiculture more than in Agriculture, Horticulture, Floriculture or amid iron-clad, steel bright, golden-pure wonders of Mechanics? Are not the Penis and Womb as native, handsome and worthy in use as pivot and socket, pistil and stamen, pollen and ovule? What rioting debauchery, what rotting disease, what stroke of moral death or stark idiocy is upon men that they are less intelligent, respectful and orderly with their own body-selves than with the mental, wooden or vegetable manifestations of form and power? Not the voting question merely but the Sex Question, calls for discovery and Conversation; in dark, hidden ways men legislate on the use and destiny of women's bodies,—when we may or may not conceive; whether we shall have syringes to take an injection, enema, or for other cleansing purposes, and Citizens are imprisoned for daring to ask the reason why! —*Angela T. Heywood in Leaflet Literature.*

That same plainness of speech which is called such bad taste in Mr. Heywood is to be found in all the great masters of literary expression, in the Greek classics, in Chaucer, Shakspeare, Milton, Dryden, Shelley, Goethe, Victor Hugo, as well as our own Whitman, and even in Emerson, and likewise in the fountain-head of Christianity itself, the Jewish scriptures. So universal is it that one might pronounce it the voice of Nature herself trying to vindicate the purity of every act of hers. I can match the most objectionable words of Mr. Heywood with something far more objectionable in the great writers of the world. Do you say that they were simply expressing the spirit of their age, and that if they wrote now they would write differently? That is not proven. Shelley, Goethe, Hugo are the most modern writers, and they have used the same expression. Chaucer, Shakspeare, Dryden, Swift, Fielding, Sterne were not the creatures of their day—they were its masters. They were creative forces, and acted only in obedience to their own supreme genius. And when we pass from literature to art—to painting and sculpture—we shall find this method of expression far more prevalent and glaring. The old painters, and the modern painters, too, like Turner, reveled in this nakedness of the truth. They believed in it as requisite to all high art. Everywhere in the old country where art has won its greatest triumphs, do we find this open expression of every feature of Nature. Nothing is concealed. There is no appearance of shame. The human body has not been denied its rights upon the canvass or in the breathing marble.—*S. P. Putnam in N. Y. Truth Seeker.* Thus you see, Gentlemen, that in art literature, science, mechanics architecture, politics and religion there is constant reference, respectful, appreciative deference to the human body and the sexual nature; are sculptors, painters, writers, statesmen and religionists therefore “obscene” either in fact or intent? When Christians put the cross on their steeples, adorn their churches with it, and wear images of it on their bosoms, whether they know the historic origin of it or not, are they impure in fact or motive? I ask you, Gentlemen, to be as in-

* Webster, publicly addressing the wealth and fashion of Boston once alluded very directly to the sex-significance of Bunker Hill Monument; those interested can see the passage in *June Word*, Y. L. 12.

telligent and impartial in your judgment of passages in social-reform literature as you are in your opinions of other books and works of art. My venerable and devoted friend, Parker Pillsbury, in "Cupid's Yokes and The Holy Scriptures Contrasted" presents many passages from the Bible which ministers would not read from their pulpits or parents in their families. Is the Bible, "God's Word" therefore "obscene," unmailable? Respecting words and sentences which some may not approve in writings on the Sex Question there is to be said in their behalf: the writers aim to remove social evils and use such language as they deem necessary to achieve their object. They ask at every step is it right, proper, healthful, beneficent for persons or society; they appeal to thought, conscience, and endeavor to bring Sexuality into the domain of reason and moral obligation. They say "Seek ye first Truth; be sure you do nothing which you cannot justify to yourself and others as right; but, if you mis-step, go wrong, don't skulk from the natural results of your action; pay the cost, suffer the consequences of wrongdoing but do right next time." If one's physical nature is moved by reading syringe advertisements need he therefore go and violate a woman or do any other indecent or unmanly thing? Certainly not. If he "holds his body subject to reason," "keeps his body under," as St. Paul and Free Lovers urge, this revival of sexual energy in him will make him more of a gentleman; found a family, generate children, increase society, study and practice *stirpiculture* which is at least, equally important, honorable, necessary with agriculture, horticulture, architecture, as human beings are of account as well as corn, cotton, cattle, wood and stone—all worthy and useful in their way. Prevailing vulgarity, indecency, call for truth, advice, culture; if a bad book is afloat I want to see it, show it to my children, *protect them from it by knowledge of the wrong in it, and of the right as distinguished, distinct from it.* As Judge Lowell said, in the Jones' case I referred to, unhealthy curiosity, impure desire, indecent habits are fruit of neglect on the part of parents and teachers to inform children from the earliest years, and thereby assure intelligence, purity, modesty. How often parents evade children's questions respecting the new-born babe, tell them the doctor brought it in his bag or the storks on their backs from the meadow! Hence, *insincerity*, distrust and that saddest sight under Heaven,—an inquiring child that cannot confide in, believe, its parent! Though there is now great difference of opinion regarding them, intelligent students of books and morals find, in Cupid's Yokes and Leaves of Grass, not evasion, deceit, obscenity; but welcome, knowledge, sincerity; mental surgery, curative treatment of error, and quickening impulse to right action, clean life.

I now pass to "obscenity" as a question of law; it is well said, "this statute must either be defined or repealed;" Mr. Almy says nothing is done here without sanction of law; if that is really so he will have to beget a statute before pushing me further. I am amazed that these prosecutions could have gone on so long without any legal definition of "obscenity." Alleged "crime should be so clearly defined that there can be no mistaking it; murder, homicide, arson, larceny, burglary, forgery are so defined that they cannot be misunderstood. If obscenity is a crime punishable by fine and imprisonment it ought to be so clearly described that we may know in what it consists, and that accused persons may not be at the mercy of a man, or a number

of men who construe what is obscene, indecent or immoral by their own special opinion or notion of morality or immorality. What is obscene to one man may be as pure as mountain snow to another; one man should not and cannot decide for other men." Until we have a statute defining obscenity, in the absence of a legal definition of the crime or misdemeanor alleged, the prosecution improvises a statute, makes a law to fit or misfit the accused! The posture of affairs is similar to what obtained forty years ago, or more, relative to blasphemy when Abner Kneeland the founder and editor of the Boston Investigator was arrested and tried here; the venerable Chas. G. Greene, many years editor of the Boston Daily Post, was upon the jury and *voted for acquittal, stood alone for Mental Liberty*, holding that alleged blasphemy is a matter of opinion of which every citizen must judge for himself; it was a manly, courageous and highly serviceable act for which Mr. Greene is now held in affectionate remembrance by all friends of morality and progress. April 4th, 1878, a lady, Mrs. Abbie Dike Lee, was arrested in Lynn for selling Cupid's Yokes; in May following she was tried in the Superior Court at Newburyport, Judge Brigham presiding; in his charge to the Jury, alluding to the fact that there is no legal definition of obscenity, he said:—

There is no doubt but that subjects of a delicate nature can be discussed in a proper way; that a book to be obscene must appear so to the minds of the *pure* not to the impure merely; that the general tenor and purpose of the book as well as special passages must be considered; that allowance must be made for freedom of conscience and the right of private judgment in morals; that in asking whether a book outrages "public decency," is "offensive to chastity and morality" or tends to the corruption of youth the rights of opinion, diversities of views and the constitutional guarantees of liberty must be kept in mind.

After listening to this fair and impartial view of the case by Judge Brigham the Jury retired; three hours deliberation leaving them standing six to six the Judge dismissed them and released the lady who has not been molested since; nor was the sale of Cupid's Yokes interfered with in Massachusetts afterwards. Relative to the interpretation of this statute, its intent and purpose I will now call two witnesses who voted for it in Congress, and whose opinions have weight with large numbers of our Massachusetts people. First, Senator Geo. F. Hoar; in a letter to me written in Dec. 1877 and which was printed in Jan. Word, 1878 he said:—

The line of distinction between honest argument intended to convince the people that their opinions, laws, or social and domestic arrangements are wrong, however mistaken or even injurious in their result such arguments may be, and writings designed to inflame evil purposes and minister to gross and depraved tastes is a line I think which our Massachusetts Jurors will be pretty sure to see and to keep. I have never heard anything of you which would lead me to believe you would knowingly write anything of the latter class however strongly I might disapprove of some of your opinions.

I will add to this a brief extract from Mr. Hoar's notable speech in the United States Senate in Feb. 1878, on the Natural Liberty of persons involved in Woman's Rights,—her right to prevent conception indeed if she thinks best to do so. Relative to the perversion of government and mal-use of its statutes Mr. Hoar said:—

I do not think that in this matter of government the sex which has so far engaged that function has attained to such remarkable success that it should receive very contemptuously any suggestion tending to amend the methods which shall be pursued. The one clumsiest thing which men do on the face of the earth, the one thing in which there is the most waste, the most friction, the most crime the most blundering and the most fraud is this one thing which consists in governing mankind. The functions of government are very few.

He then goes on to show that in no way has government a right to invade persons or opinions or create special offences. The other witness, who also has an influential following in this State, is Governor Butler; a member of Congress when this statute was enacted he afterwards was invited to defend Victoria C. Woodhull against Comstock's assault on her in 1872-3. Jan. 19, 1873, Gen. Butler wrote Mrs. Woodhull from Washington as follows:—

That statute was meant to cover, and does cover sending that class of lithographs, prints, engravings, licentious books and other matters which are published by bad men for the purpose of corruption of youth, through the United States mail. . . But that it was intended to cover or prevent a description of facts alleged to have happened, or acts to have been done by any individual not for a bad purpose, such acts "the statute never was intended to reach." . . No legal wrong can be done under it when the case comes before a learned and intelligent judge.

Ever since its enactment Gen. Butler has denounced the uses Comstock and his backers have made of this statute for persecution of opinions; when, on the wave of indignation caused by my and Mr. Bennett's arrest in 1877-8 petitions were circulated for the repeal of this statute, bearing 70,000 names they were presented by Gen. Butler to Congress. He openly disapproves of the prosecution in this case, ridicules and denounces using the United States Government to "advertise a syringe;" Senator Hoar and President Garfield when they were fellow members of the lower House of Congress earnestly coincided with Gen. Butler's view of this statute. The N. Y. state courts hold the same view; in May 1878 "Mrs. Farnsworth" alias Anthony Comstock bought two of these syringes of Dr. Sara B. Chase and arrested her for selling them; he importuned three or four grand juries before he got an indictment which was afterwards quashed by Judge Southerland on motion of Dist. Att'y Rollins. You see, Gentlemen, years ago Comstock's own state courts acted on the sensible views of Senator Hoar and Gov. Butler; holding it inconsistent with intelligent law, sound morals and enlightened policy to sanction invasion of personal rights under these statutes.* In the case of A. Orlando Jackson passed upon by the Supreme Court June 4th, 1878, though the decision related to the application of this statute to lotteries the opinion of the Court delivered by Justice Field had this notable passage:—

Nor can any regulation be enforced against the transposal of printed matter in the mail which is open to examination so as to interfere in any manner with the freedom of the press, or with any other rights of the people. Liberty of circulating is as essential to that freedom as liberty of publishing; indeed without the liberty of circulation the liberty of publication would be of little value.

This plainly significant affirmation of the right of opinion in Morals by the Supreme Court covers all I ask of your Honor and Gentlemen relative to the construction of this statute. In his message to Congress, in Dec. 1878 these noble words from President Hayes I like to read side by side with his emancipation signature which liberated me from Dedham Jail on the 19th day of that freedom month:—"The protection of liberty requires the maintenance in full vigor of the manly methods of Free Speech, Free Press and Free Suffrage."

But the alleged "crime" in this case is purely fictitious, manufactured. In the great state-trials of Tooke, Hardy and Thelwall, in 1794, Erskine's irrepressible zeal, inclusive learning and unrivalled eloquence

* Ex-Gov. John D. Long once said to Mr. Heywood:—"Though we may dissent from your positions, politicians do not favor persecution; I think you should be assured your right to hold and diffuse honest opinions." Lieut. Gov. Ames has the same views.

exploded the old doctrine of "constructive treason," which until then prolonged torture and "tracked blood" through England; he "established law on the true foundation, that there must be some *overt act* to constitute crime and made it possible for citizens to "freely speak and publish opinions concerning government, without being guilty of treason." But the savage usurpation which Erskine strangled in England comes up here, eighty years later, in the form of "constructive immorality;" it "makes man an offender for a word," drags citizens before magistrates and holds them liable to excessively severe penalties for truth uttered in spoken or printed debate! Yet the whole thing is feigned, instigated, caused, a put-up-job. Whose morals have I impaired? "J. A. Mattocks" is an imaginary person; twelve years of skulking decoy and professional lying leave no morality in Ella Bender, alias Anthony Comstock to be injured. In this case the accuser is the immoralist, the criminal. If a boy is true or naturally infected with falsity what man is base enough to tempt him to lie? If he leans to theft, how wicked, by decoy or otherwise, to studiously develop in him impulse to steal! If he is careless of life in using firearms who is the wretch so devilish as to deliberately teach him murder? If the naturally innocent boy was the son of either of you, Gentlemen, or your Honor's and the perversity was implanted by an authorized government "agent" what words could voice your anguish? What barrier restrain your righteous, vaulting wrath? Essential evil is personized as "Satan," "Devil" because he instigates, begets sin; it is a principle of Common Law and universal morality that one who is the primal, persistent cause of it is an accomplice in the offence, if not the chief criminal. I ask your Honor, therefore, to dismiss this case and send home my accuser because he is an accomplice in the alleged crime. And I am happy to be able to refer the Court to recent action by Judge Treat of St. Louis and Judge Dillon of Chicago who threw out these cases for reasons I have given.*

My legal right of opinion invaded by this prosecution is not only intrenched in fundamental law of the Union and the States but it is assured by the ablest and truest publicists in our history. Thomas Jefferson said to the Virginia House of Delegates in 1785:—

To suffer the civil magistrate to intrude his powers into the field of opinion and to restrain the profession or propagation of principles on the supposition of their ill tendency is a dangerous fallacy which at once destroys all religious liberty; that it is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order.

Edward Livingston, writing to M. Duponceau favored

Leaving the whole class of indecencies to the correction of public opinion. . . Turn to any indictment for the publication of obscene books or prints, or for indecency of behavior, and you will find the innuendoes and exposition of the offence infinitely more indecorous, more open violation of decency than any of the works they are intended to punish and repress. In trying to bring harmless levity under the lash of the law sculpture and painting will be banished for their nudities; poetry for the warmth of its descriptions; and music, if it excite any forbidden passion, will scarcely escape. But my opinion, now invaded is affirmative, not negative or neutral merely; as under the lead of Garrison and Phillips I urged abolition of negro slavery, so now I strive for the liberation of Labor and of Wo-

* Who caused the statute to be violated? What right had the vice-society's agent to exploit in that manner and violate the statute? Is not this manufacturing crime? The point is not how guilty the convicted man is or whether the mails were used by quacks, humbugs and worse people; but who provoked the commission of the crime? Ought the Federal Courts to be used to aid manufactured crime?—*Judge Treat, reported in N. Y. Times, Dec. 16th, 1878.*

man; as in 1835-7 Southrons tried to suppress, by Federal statute, anti-slavery prints as "incendiary literature," so pseudo-conservatives now assail social-reform prints as "obscene literature" and the blow is struck at reformers of all shades of opinions. My accuser says:—

Another class of publications issued by Freelothers and Freethinkers is in a fair way of being stamped out. The public generally can scarcely be aware of the extent that blasphemy and filth commingled have found vent through these varied channels. Under a plausible pretense, men who raise a howl about free press, free speech, etc., ruthlessly trample under foot the most sacred things, break down the altars of religion, burst asunder the ties of home, and seek to overthrow every social restraint.—*Anthony Comstock's 4th Annual Vice-Society Report.*

Comstock's construction of the statute voices this vindictive purpose; but your Honor, I trust, will have a more liberal view, favoring not the letter of it which killeth but the spirit which assures purity in liberation. Respecting Calhoun and Jackson's effort to suppress what they termed "incendiary" prints Henry Clay said in the U. S. Senate: "They could not (rightfully) pass any law interfering with the subject in any shape or form whatever." Senator "Honest John" Davis of Massachusetts, (of Worcester, your Honor) said:—

It would be claiming on the part of Government a monopoly—an exclusive right either to send such papers as it pleased, or to deny the privilege of sending them through the mail. Once establish the precedent, and where will it lead to? *Government may take it into its head to prohibit the transmission of political, religious, or even moral or philosophical publications, in which it might fancy there was something offensive; and under this reserved right, contended for in this report, it would be the duty of the Government to carry it into effect.* He denied the right of the Government to exercise a power indirectly which it could not exercise directly; and if there was no direct power in the Constitution, he would like to know how they would get the power of the States—a legislative power at most.

Senator James Buchanan of Pennsylvania said:—

If such a doctrine prevailed, the Government may designate the persons or parties, or classes who shall have the benefit of the mails, excluding all others.

Daniel Webster, "shocked" at the unconstitutional character of the whole proceeding, said: "Any law distinguishing what shall or shall not go into the mails, founded on the sentiments of the paper, and making the deputy post-master a Judge, he should say was expressly unconstitutional."

Seven years before this debate on the right of anti-slavery opinions a controversy raged relative to mental liberty in the Sunday Mail question; Jan. 19, 1829, Hon. Richard M. Johnson of Ky. presented to the U. S. Senate a Report which contained the following language notably pertinent to the legal right of opinion in morals I am considering:—

The proper object of government is to protect all persons in the enjoyment of their religious, as well as civil rights, and not to determine for any whether they shall esteem one day above another, or esteem all days alike holy. We are aware that a variety of sentiment exists among the good citizens of this nation on the subject of the Sabbath day; and our government is designed for the protection of one as much as for another. The Jewish government was a theocracy which enforced religious observances; and though the committee would hope that no portion of the citizens of our country would willingly introduce a system of religious coercion in our civil institutions, the example of other nations should admonish us to watch carefully against its earliest indication. With these different religious views, the committee are of opinion that Congress cannot interfere. It is not the legitimate province of the legislature to determine what religion is true, or what false. Our government is a civil, and not a religious institution. Our Constitution recognizes in every person the right to choose his own religion, and to enjoy it freely, without molestation. Whatever may be the religious sentiments of citizens, and however variant, they are alike entitled to protection from the government, so long as they do not invade the rights of others. Should Congress, in their legislative capacity, adopt the sentiment, it would establish the principle that the legislature is a proper tribunal to determine what are the laws of God. It would involve a legislative decision in a religious controversy; and on a point in which good citizens may honestly differ in opinion, without disturbing the peace of society or endangering its liberties. If this principle is once introduced, it will be impossible to define its bounds. Among all the religious persecutions with which almost every page of modern history is stained, no victim ever suffered but for the violation of what government denominated the law of God. To prevent a similar

train of evils in this country, the Constitution has wisely withheld from our government the power of defining the Divine Law. It is a right reserved to each citizen; and while he respects the equal rights of others, he cannot be held amenable to any human tribunal for his conclusions. All religious despotism commences by combination and influence; and when that influence begins to operate upon the political institutions of a country, the civil power soon bends under it; and the catastrophe of other nations furnishes an awful warning of the consequence. Under the present regulations of the post-office department, the rights of conscience are not invaded. Every agent enters voluntarily, and it is presumed conscientiously, into the discharge of his duties, without intermeddling with the conscience of another. The obligation of government is the same to both of these classes; and the committee can discover no principle on which the claims of one should be more respected than those of the other, unless it should be admitted that the consciences of the minority are less sacred than those of the majority.

I will add, in passing, these convincing sentences from a distinguished author who has given 50 years close study to Social Science:—

Civil liberty has been in a sense achieved; ecclesiastical liberty also; social liberty remains to be achieved. The emancipated thought of the world is rapidly progressing, and constantly invading new fields. It comes along in the regular order of evolution, to sexual and physiological questions. All literature is cropping out in all directions with an unwonted free-spokenness on these subjects. But there is a margin of popular prohibition here, which can only be gradually crowded back, known as obscenity, which the public generally concur in regarding as something very horrible; although ideas are, for the most part, very childish and silly on the subject. But such as they are, they can be readily appealed to prejudice, to deter, and to cover ulterior designs. Under this appeal, in this case, the ulterior design has been to prohibit and reverse the whole modern trend of literature toward freedom in social discussions. To that end a whole, new, and utterly un-American code of repressive legislation has been surreptitiously foisted in upon the statute book; the most unheard-of severity of punishment enacted, and the machinery of the law set in motion to prosecute and persecute, to convict and imprison, the choicest and best men of this nominally free and truly progressive country. Incidentally a question has arisen, among thinkers, of the possibility, desirableness, and rightfulness of limiting the increase of population. It is a tremendous and still an open question. Meantime the legal conspirator steps in, decides the question for us, against, or in the sense of old-foggydom; and the great United States government, forsooth, ignorantly, and at the suggestion of one man, enacts law against—what? Not against pistols and daggers and knives, for the Constitution has provided for our right to bear arms, but against a necessary part of a lady's bed-chamber furniture—the women having no constitutional provision in their favor. What the tea was to the Revolutionary war; what the auction block and the overseer's whip were to the antislavery warfare; what “indulgences” were to the German Reformation, “Leaves of Grass” and the “Comstock Syringe” may be destined to become in the next and last grand campaign for human emancipation.—*Stephen Pearl Andrews in Truth Seeker.*

The inalienable right of opinion, invaded by Comstock's interpretation of this statute has strong vindication by another line of thought. The great political party which, 23 years has controlled the Federal Executive and both houses of congress, with here and there Democratic exception, said at Chicago, 1860, in the platform, on which Lincoln was nominated and elected:—

“That the maintenance inviolate of the rights of the States, and especially of the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political faith depends; and we denounce the lawless invasion by armed force of any State or Territory, no matter under what pretext, as among the gravest of crimes.”

This now historic declaration related to the institution of slavery, which was not thereby indorsed, but, in Lincoln's phrase, “put in course of ultimate extinction” by leaving it an open question, an out-crying evil arraigned by mental, moral and social Intelligence; besieged by industrial, commercial and speculative Enterprise. By means of other, but far different “domestic institutions;” of those heir-looms of the ages and birth-rights of Human Nature,—Freedom of Conscience, Liberty of Prophesying, Right of Private Judgement, Freedom of Speech, Freedom of the Press and the Natural Right of

Association,—by these, Northrons hoped to carry liberating civilization to the Gulf; that the dread enginery of war, Secretary Seward's "tinckling bell," arbitrary arrests, martial havoc, desolation,—States billowed with soldier's graves from Maine to Texas—that these intervened, before Emancipation closed the great drama—was not the fault of Lincoln or his associates. These domestic institutions, loved by all intelligent people, ineffably precious in Massachusetts are now assailed by subtle savagery if not "lawless invasion;" assailed not by the armed heroism which struck slavery at Harpers Ferry, but by stealth, decoy, falsehood, treachery,—by the repulsive monstrosities incarnated in that being loathed in all nations and ages,—the politico-religious spy and informer. Princeton is my native town; 25 years ago next June, I stepped from Brown University upon the Anti-slavery Platform; since then, with radical workers who pioneer reformation, with misunderstood, despised Idealists, "few in numbers but strong in reason;" incessantly engaged, "without haste, without rest" my life has been a busy one, leaving me without a dollar and with too many unpaid debts to-day; but in all these eventful years, in my writings, speakings, travel, walk and conversation but one person ever questioned my ability or disposition to use chaste language and he is the invasive obsceneist from a not over-pure foreign city. Massachusetts has all-sufficient statutes against immorality, "obscenity" and every other vice and crime; if I am the bad man this indictment says, if I have violated law, if I have ever invaded life or property, if I ever injured any body,—if any woman or girl ever had cause to blush for word or act of mine, why have not the good people of Princeton, Boston or elsewhere found it out? I have worked in light, not in darkness; openly, above board, not in sly, clandestine ways; all my writings, views, purposes, are advertised publicly; the platforms where I have lectured or conventioned have always been free to all coming objectors; yet no man or woman ever entered complaint against me save this one foreign spy who "in ways that are dark and tricks that are" damnable, by permission of United States "law" still dogs my steps. Chattel slavery is dead,—but poverty, prostitution, libertinism, intemperance, war,—the great social evils which baffle humane endeavor and "trouble God"—these challenge my effort to remove them. Free Speech, Free Press, high-minded men and women,—all the elements which constitute a State assure my Natural Right to pursue my work unmolested.* Shall Massachusetts Citizenship longer be slave-hounded by this mercenary Federal censor who skulks in our highways and byways to regulate New England morals! Where are the grand maxims and inspirations which elected Lincoln? What death-sleep has fallen on the successors of Chase, Greeley and Sumner that, without protest, they can see Liberty again and again struck down under the shadow of Bunker Hill, and within sight of Faneuil Hall? From the once pro-slavery South, from martial fields smoking with brothers' blood shed in civil war, from a soldier-democrat come words grandly asserting rights of opinion denied me in the old Bay State. In his

*It is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of citizens and one of the noblest characteristics of the late revolution. The freemen of America did not wait until usurped power had strengthened itself by exercise and entangled the question in precedents. They saw all the consequences in the principle and they avoided the consequences by denying the principle. We revere this lesson too much to forget it.—*President Madison.*

famous order while commander of the Department of the Southwest, witnessing the dire-results of repressive measures which shielded slavery from criticism, and thereby referred the anti-slavery issues to the sanguinary tribunal of war, Gen. Hancock said:—

The great principles of American liberty are still the lawful inheritance of this people, and ever should be. The right of trial by jury, the habeas corpus, the liberty of the press, the freedom of speech, the natural rights of persons, and the rights of property must be preserved. Free institutions, while they are essential to the prosperity and happiness of the people, always furnish the strongest inducements to peace and order. Woe be to us whenever it shall come to pass that the power of the magistrate—civil or military—is permitted to deal with the mere opinions or feelings of the people. Sentiments of respect or disrespect, and feelings of affection, love or hatred, so long as not developed into acts in violation of law, are matters wholly beyond the punitive power of human tribunals. The entire freedom of thought and speech, however acrimoniously indulged, is consistent with the noblest aspirations of man, and the happiest conditions of his race. The maxims that in all intellectual contests truth is mighty and must prevail, and that error is harmless when reason is left free to combat it, are not only sound but salutary. It is a poor compliment to the merits of a cause that its advocates would silence opposition by force; and generally those only who are in the wrong will resort to this ungenerous means.

My accuser asks you Honor and you, Gentlemen, to help him “stamp out” opinions he lacks wit to understand; eleven years this heated persecution of editors and publishers impelled to investigate social evils has burned on,—the “agent” boasting of the numbers who have died under his torturing hand; Woodhull and Claflin, Geo. Francis Train, John A. Lant, Dr. E. B. Foote, D. M. Bennett, H. L. Barker, Dr. Sara B. Chase, and myself now again assaulted under his inquisitorial use of Federal law,—the one persistent object being to suppress books and newspapers expressing liberal, progressive views. When one steps from out-door, N. Y. life into Comstock’s office, 150 Nassau St., he steps from the 19th back to the 10th century; steps from the civilization of to-day into the barbarism of the dark ages. In 1694, 189 years ago, England was set free from censors of the press; 50 years before, in 1644, John Milton’s great effort for the Liberty of Unlicensed Printing was published; especially interesting me during my school days it was the subject of my graduating address on leaving the University; now that a second time my liberty and life are imperilled to vindicate the inalienable right of mental freedom, some passages from that famous discourse, especially dear to all English speaking nations, are more potent than words of mine:—

Books are not absolutely dead things, but do contain a progeny of life in them to be as active as that soul was whose progeny they are; nay, they do preserve, as in a vial, the purest efficacy and extraction of that living intellect that bred them. As good almost kill a man as kill a good book; who kills a man kills a reasonable creature,—God’s image; but he who destroys a good book kills reason itself, kills the image of God, as it were, in the eye. Many a man lives a burden to the earth; but a good book is the precious life-blood of a master-spirit, embalmed and treasured up on purpose to a life beyond life. It is true, no age can restore a life whereof, perhaps, there is no great loss; and revolutions of ages do not oft recover the loss of a rejected truth, for the want of which whole nations fare the worse. We should be wary, therefore, what persecution we raise against the living labors of public men, how we spill that seasoned life of man preserved and stored up in books: since we see a kind of homicide may be thus committed, sometimes a martyrdom; and, if it extend to the whole impression, a kind of massacre, whereof the execution ends not in the slaying of an elemental life, but strikes at the ethereal and fifth essence,—the breath of reason itself; slays an immortality rather than a life. If we think to regulate printing, thereby to rectify manners, we must regulate all recreations and pastimes, all that is delightful to man. No music must be heard, no song be set or sung, but what is grave and doric. There must be licensing dances, that no gesture, motion, or deportment be taught our youth, but what by their allowance shall be thought honest. Those unwritten, or at least unconstraining, laws of virtuous education, religious and civil nurture, which Plato mentions as the bonds and ligaments of the commonwealth, the pillars and the sustainers of every written statute; these they be which will bear chief

sway in such matters as these, when all licensing will be easily eluded. Wherefore did God create passions within us, pleasures round about us, but that these, rightly tempered, are the very ingredients of virtue? This justifies the high providence of God, who, though he commands us temperance, justice, continence, yet pours out before us, even to a profuse excess, all desirable things, and gives us minds that can wander beyond limit and satiety. Why should we then affect a rigor contrary to the manner of God and of nature, by abridging or scanting those means which books freely permitted, are both to the trial of virtue and the exercise of truth? And though all the winds of doctrine were let loose to play upon the earth, so truth be in the field, we do injuriously by licensing and prohibiting to misdoubt her strength. Let her and falsehood grapple. Whoever knew truth put to the worst in a free and open encounter? Her confuting is the best and surest suppressing. For who knows not that truth is strong, next to the Almighty? She needs no policies, nor stratagems, nor licensings to make her victorious; those are the shifts and the detences that error uses against her power. Give her but room, and do not bind her when she sleeps.

Yet, 239 years after these sublime admonitions to British rulers, heeded, indorsed by them 50 years later,—in the year of Christ 1883, not 1644, I am forced to *plead* for the right to circulate honest opinions in Massachusetts! Shall I plead in vain here in Boston, the Athens of America, for a right permitted to stirpiculturists in Plato's Attica, centuries before the Christian Era? If Republicans at Chicago, in 1860, could leave slavery an open question, agreeing not to assail that "sum of all villainies" in South Carolina, cannot the successors of Lincoln and Seward agree with Butler and Hancock that the right to investigate social evils, to oppose forced impregnation, to resent rape by syringe advertisements should not be denied under United States law in 1883 to old anti-slavery Massachusetts? Think, Gentlemen and your Honor, think of the amazing fact that, arraigned under perverse interpretation of law infinitely more tyrannical, cruel and savage than Calhoun and Jackson tried and failed to impose I stand here *pleading* for mental liberty, in the city of Sumner, Andrews and Garrison!

Beaten in argument, slaveholders flew to violence; quailing before insurgent Moral Sense, the irresistible Conscience of Northrons which defied then dethroned Webster, Southrons replied in howling mobs and red-handed war. Did that save slavery? Because Comstockians cannot refute my arguments they try to stifle reason by violence. Conception, marriage, obscenity, social evils are open questions; I cannot believe, Gentlemen and your Honor, that, by sanctioning persecution of Free Lovers, you will concede that marriage will not bear examination. Waiving methods men assured Garrison's right to Free Speech:

Mrs. Martineau says when Edward Everett sent a message to the legislature in 1836, suggesting that a law might be passed in Massachusetts, making it a penal offence to publish anything against slavery in the South, Wm. Lloyd Garrison asked for a hearing before the legislature. In the midst of that meeting, the door opened, and Dr. Channing entered the room. As soon as the gentlemen of the legislature saw him, they arose from their seats, and stepped forward to welcome him to a place by their side. But he, gazing around the room, at last saw where Mr. Garrison was seated—the most hated, despised man in Boston at that time,—going to him, held out his hand, and sat by his side, to show his sympathy with him.—*Rev. James F. Clarke.*

Ten years ago Rev. Dr. C. A. Bartol of Boston, the Channing of to-day, stood up for mental liberty in this struggle saying, "If marriage cannot stand criticism it will fall and ought to fall." In this letter he gives me leave to quote him now as utterly opposed to further use of this statute to restrict Intelligence. As with slavery, so with still living evils I work to abolish; because they fear light they must go. By peace or unrest, through government or over government, injustice will be corrected and progress break its way. The eye of the prophet sees this, his heart feels it bewailing the blindness of rulers who sustain wrong at the cost of martyrdom. As he beheld the Boston of Judea Jesus exclaimed "O Jerusalem, Jerusalem, thou that killest the

prophets and stonest them that are sent unto thee! How often would I have gathered thy children together but ye would not. Behold your house is left unto you desolate!" And of the proud Jewish theocracy, and of the intellectual prestige of Greece, and of irresistible Roman eagles conquering them both, nought remains but the Cross of the hated Nazarene and Christendom kneeling towards it! I love old Massachusetts; every tree on her borders, every grey rock cropping up through her thin, unkindly soil; her churches, too often favoring tyranny and persecution, yet still temples of ever-living, beneficent faith; her seats of learning and libraries, treasure-houses of acquired knowledge and training schools to seek it; her courts and legislative assemblies, favoring much that is invasive and cruel, yet exponents of collective purpose to see the fair thing done; her sanctuaries of art, philosophy, science and domestic felicity; her intuitive electric brain prolific of mechanical wit, of literary, speculative and philanthropic Enterprise; and her irrepressible Moral Sense which made Boston the cradle of colonial liberty, the brain of anti-slavery prowess and the nursery of grander phases of growth yet in germ! The shadows of persecution darken her record and the spirit of repression still struggles for supremacy. Seeking true rather than pleasant things; following Right, lead where it will and cost what it may, I live in the hope of new Moral Order, of revived Intelligence which, not resisting Social Evolution, will rejoice in its beneficent tendencies. In this field of spiritual warfare, of moral endeavor we are all judges, all jurors, and all on trial:—

"Once to every man and nation comes the moment to decide,
In the strife of Truth with Falsehood, for the good or evil side;
Some great cause, God's new Messiah, offering each the bloom or blight,
Parts the goats upon the left hand, and the sheep upon the right,
And the choice goes by forever 'twixt that darkness and that light.
Then to side with truth is noble when we share her wretched crust;
Ere her cause bring fame and profit, and 'tis prosperous to be just;
Then it is the brave man chooses, while the coward stands aside,
Doubting in his abject spirit, till his Lord is crucified,
And the multitude make virtue of the faith they had denied.
Careless seems the great Avenger; history's pages but record
One death-grapple in the darkness 'twixt old systems and the Word;
Right forever on the scaffold, Wrong forever on the throne,—
Yet that scaffold sways the Future, and behind the dim unknown,
Standeth Truth within the shadow, keeping watch above her own."

Mr. Heywood here examined at length the evidence put in by the government, showing plainly that nothing anywise sufficient to sustain its charges had been proved; that its case rested entirely on the views of "law" and personal word of the "agent" who was a proved falsifier in several particulars in this very case; that, after so many years of professional deception, lying on principle, perjury as a religious-moral "duty," in the words of Mr. Pickering before Commissioner Hallett, "to suppose Anthony Comstock *can* tell the truth is a most violent assumption;" that he "remembers to forget" or forgets to remember whatever is not likely to convict his victims; hence his testimony cannot possibly be taken as credible by an intelligent, honest jury. Mr. Heywood then read the following:—

Requests to the Judge to Charge the Jury.

1. That, since the Right of Private Judgment in Morals and the included consequent right to utter, print and mail opinions thereon are irrevocably assured in those clauses of the Federal Constitution which guarantee Freedom of Con-

science and Liberty of the Press; an interpretation of this statute which excludes opinions from the United States mails, or otherwise restricts their circulation, violates the purpose of the framers of this statute and is subversive of the Constitution itself.

2. That since obscenity is a vice rather than a crime, the bad fruit of inconsiderate and vulgar habits; and since sobriety, temperance, chastity are promoted by the diffusion of knowledge, any interpretation of this statute which hinders investigation of the causes of social evil or prevents offering remedies therefor, indirectly favors the continuance of immoralities and hence is at war with the best interests of society.

3. That a citizen cannot lawfully be deprived of his or her liberty, property or life on fictitious, manufactured testimony.

4. That the so-called evidence against the defendant in this case (excepting that of Mr. Gregory) was got by fraud, and, is therefore, untrustworthy; that the word of the instigator of the alleged offence and main witness against the defendant therefore cannot alone be taken as proof of criminal act or intent in a citizen guilty of no overt act against any real person and concerning whom no one even pretends that he ever invaded the liberty, life or property of other citizens or injured them in any way whatsoever.

5. That the instigator of the alleged crime is, both by act and intent an accomplice therein; hence on settled principles of Common Law and Sound Morality, he, the said instigator and accomplice is the really guilty party to be punished, if any one must suffer pains and penalties—the defendant being allowed to go his way and mind his own business unmolested.

6. That where words or sentences, which might otherwise be questionable, are used in good faith in social polemics, philosophical writings, serious argument, or for any scientific, literary or medical purpose, and are not thrust forward wantonly, or for the purpose of exciting lust or disgust they are justified by the object of their use; and are not obscene or indecent within the purpose of the law.

7. That none of the words or sentences used in the Syringe advertisement by and of themselves, are obscene or indecent, that all of said words are well known and common words of the English language, may be properly used as such, and are not within the meaning and purpose of the law unless wantonly and unnecessarily used so as to offend the sense of decency.

8. That the true character of these words and whether they are obscene or not must be determined by the manifest intent and purpose of their use in this copy of THE WORD newspaper, by their comparative use in generally accepted literary, medical and reformatory works, and by the jury.

9. That the object and purpose of the publishers of THE WORD in printing the advertisement, and the intent, purpose and character of the defendant's life, as a reformer, must be considered before it can be held probable that the words relied upon by the prosecution are within the statute. That if the general intent and purpose of the newspaper containing the advertisement were not to make an obscene publication the words and sentences objected to do not make it so.

10. That the fact that the advertisement states an opinion, proclaims a principle which is accepted as true by many intelligent, conscientious and virtuous people; that preventing conception is widely advocated in medical, scientific and reformatory works; and that the experience and practice of married people generally cannot be held to be against such a view must be considered by the jury in determining whether the passage objected to is obscene and that the manifest intent and purpose of inserting the advertisement affords a strong presumption that it is not an offence under the law.

11. That although it may appear certain to the jury that the doctrines and sentiments proclaimed by THE WORD would be injurious to the community or destructive to society if generally practiced, yet if the advertisement objected to was inserted in good faith to advocate a principle and re-ent an illegal and irresponsible censorship of the press and of morals; that if it was not manifestly designed to wantonly and unnecessarily offend the sense of decency, excite lust, disgust or to promote immorality the said advertisement is not within the law.

12. That this statute being in derogation of the Common Law, severely restrictive of the liberties of citizens and of a highly penal character should be strictly construed in cases of this kind so as not to violate or subvert the fundamental guarantees of liberty preserved and potentially authoritative in the Federal Constitution.

13. That when, in considering this case, doubts and uncertainties arise as to the meaning and intention of the publication objected to; or if there are difficul-

ties in determining what obscenity really is; or if the definitions of obscenity which may be given by the Court are of uncertain application, all reasonable doubts, uncertainties and difficulties which confront the jury are to be resolved by giving the accused the benefit of them.

14. That whether obscenity be considered as a question of law or of fact, as a question of morals it is wholly beyond the constitutional power of Congress to determine; that in-so-far as this statute is interpreted to deny the Natural Right of women to have a voice in maternity; or to forbid them the use of their own reason and conscience, in these delicate and imperatively serious matters, the statute thereby is made to favor forcible impregnation, seduction, rape; that its enforcement on the defendant in this case violates every accepted principle of civil, moral and religious liberty and is an outrage on Human Nature itself.

15. That the jury are the final judges of the law and the fact in this case and that the definitions and rulings given by the Court are not conclusive upon them.

16. The questions relating to the advertisement in *THE WORD* are covered by this summary: Did the defendant on the testimony deposit that paper in the mail within the jurisdiction of this District? Is that advertisement within the prohibition of the statute?

17. This advertisement does not come within the purview of the statute.

18. The "notice of any kind" named in the statute must clearly be some "notice" distinguishable from and differing from an "advertisement" for the reason that "advertisement" is previously named in the terms of the statute.

19. There is no complaint for mailing a paper containing any advertisement relating to the aforesaid articles or things.

20. Under this statute the burden is upon the government, when charging the "conception" phase of offence, to charge and to prove that the "article or thing" is in fact designed and intended for the prevention of conception. (a) The advertisement is no proof of this, not even *prima facie* or presumptive. (b) There has been no testimony whatever on this point. (c) Inspection of the Syringe shows that it is no more than an instrument of cleanliness.

21. The jury cannot rightfully presume that the syringe was advertised to be used for an illegal purpose, if it was also capable of being used for a legal purpose of health and cleanliness. If in doubt on this point, they must give the defendant the benefit of the doubt.

22. The advertisement in *October Word* is not within the purview of the statute inhibiting as non-mailable by reason of the statutory prohibition.

23. If Edwards and Mattocks were fictitious and not real persons, the documents addressed to such names with no persons behind the names are not within the statute. The whole tenor of the statute demonstrates that it is a real and not fictitious person to whom the mail matter must be addressed and sought to be communicated with; "for mailing or delivery" implies that the person addressed in the name addressed is a real personality, and not merely the shadow of a name, who may be corrupted and may open the communication.

24. It is the right of a woman to prevent conception, and any advertisement of innocent means of prevention is lawful and not within the statutory prohibition.

25. The transaction, to be within the statute, must be a real and not a fictitious transaction. It is only those who misuse the mails in the ordinary course of mailing transactions that come within the provision of the statutes. If Mattocks was not a real person, and the package passed through the mail as a part of Comstock's scheme, it is not within the statute.

26. To bring an accused party within the statute the burden is upon the government to prove beyond reasonable doubt: (a) That the packages addressed to Edwards and Mattocks were non-mailable, (b) that the defendant deposited them in the mail within the District of Massachusetts.

27. If Anthony Comstock knowingly took these packages from the mail for the purpose, not of concealing and destroying, but of circulating the same, he is guilty of one phase of the crime prohibited by this statute. It is no answer to urge that he did this to detect alleged crime. He is within its words, and had no right to use the statute for any such purpose.

28. The third count contains no sufficient description of the advertisement to make *THE WORD* containing it a competent piece of testimony for the consideration of the jury.

29. This count, which does not claim or allege obscenity, should set forth the advertisement in full and exact words.

30. Because this is not done the jury should disregard entirely this count.

31. Both the third and the fourth counts are unsustained by the testimony

offered, and there is a fatal variance, inasmuch as the government alleges not "where" or "of whom" the syringe could be obtained, but "how" and "by what means." The advertisement shows "where" and "of whom," but not "how" and "by what means" the syringe could be obtained.

32. These phrases as used in the statute have, and were designed to have, different and not the same meaning, and the government, having elected one set of phrases, is bound by them and limited by them.

33. The fourth count does not properly or sufficiently *purport* to set forth the words of the advertisement inasmuch as it avers that the advertisement *vegan* as follows, etc.

34. It is no answer to this that the whole advertisement is in reality set out.

35. The allegations as to the same page and the same column, etc., in the fourth count are descriptive of the offence and must be proved as alleged.

36. If all the documents inculcated were mailed in the same package and at one time, it was all one offence and cannot be charged and tried as three distinct offences.

37. The government must prove that October Word was deposited by the defendant in the post office at Princeton, for passage through the mail and carried in the mail and duly delivered by mail process at Nyack. Any doubt or failure of proof on these essential elements of the government's case entitle the defendant to an acquittal.*

Mr. Heywood then concluded his address as follows:—

Gentlemen, your Honor, I am in your power. Whether it be right in the sight of Truth to obey Truth rather than the wicked perversion of a well-meant statute judge Ye. Read by alias-decoy eyes its letter killeth Liberty, rekindling fires of Spanish-Inquisition in these States; read in the purpose of just men,—Butler, Hoar, Banks and Garfield who voted for it, its spirit does not favor persecution. What harm in being wiser to-day than yesterday? On board the "Speedwell" about to sail from Delft-Haven in Holland, July 1620, their old minister John Robinson said to our forefathers and mothers, the Pilgrims:—

I charge you, before God and his blessed angels, that you follow me no further than you have seen me follow the Lord Jesus Christ. The Lord has more truth yet to break out of his holy word.

In this "lawless science of our laws, this maze of precedents, this wilderness of single incidents" called government there will be quite enough retrogressive, superstitious irrationalism if we put aside all apparent tyranny. You, Gentlemen, come direct from the enmasse people who hear Truth gladly; in whom "a few strong instincts and a few plain rules" achieve "more for mankind than all the pride of intellect and thought." Erskine said it took five centuries of athletic nerve and martyr agony to put twelve men in the jury box; when Giddings and Hale succeeded in putting twelve honest men between Southrons and their fleeing chattels there was not much left of the Fugitive Slave Bill. When citizens know themselves physically, as well as mentally and morally; realize the pregnant issues involved in this Sex Question; see that not my rights only are assailed but your rights, the right of your children and of your children's children to have quick souls in sound bodies; see that it is to save the very Soul of Rational Being that I again imperil my liberty and my life, you will not doubt my innocence of the charges alleged in this indictment, and say to the much aliased "agent," "Be no more officer of ours." There are occasions which, taken at the flood, tide nations towards larger, nobler life; occasions when "as alone we are born, alone we die and alone

* Of these "requests" Mr. H. wrote 14, A. E. Giles one, and Geo. W. Searle Esq. the last 22—copied by Benj. R. Tucker; Mr. H. is also indebted to the Messrs. Wakeman in the Bennett case; to J. F. Pickering and Geo. W. Park in their able and devoted defense of him, Jan. 1878; and to Messrs. Pickering, Searle, Cobb and J. W. Stillman Esq. in this case.

we go up to judgment," when one man, alone in Truth, strong in what he knows to be right, voicing the Higher Law of morals, scores a mark for Progress which is a beacon light of inspiration to all weaker mortals! Your Honor, chosen to the seat of reason, with eye quick to see subtle falsities, as well as plain equities; with ear attuned to the indwelling harmony of things; guided by Natural Justice which was before governments and will survive them, in that judicious use of power assured by intelligence and character,—will render such decisions as the Heart of Commonwealth inspires. Hitherto under this statute Free Lovers and Free Thinkers selected by his alias "agency" to be "stamped out," we, negroes of to-day, have had few rights which obsceneists were bound to respect. Sad indeed is it that hitherto Liberty has come mainly through martyrdom; that "by the light of burning heretics" we track the bleeding feet of Progress,—civilization advancing from prison to prison, from gibbet to gibbet, from stake to stake. But there are instances where official power becomes liberating Providence, as when Judge Harrington of Vermont said to a slave-hunter "Show me a receipted bill of sale from God Almighty and you may have this man;" as when Lord Mansfield's ruling made every human foot free that stepped on English soil; as when myriads of Russian serfs were liberated by Alexander II's potent Word which was echoed in the stroke of Lincoln's pen that freed four million slaves here. The prosecutions under this statute since Nov. 2, 1872, not only disgrace the noble word, "Law" and make government the synonym of contempt, but record a page in history which will burn and blacken, before all eyes, as time advances! I have no fears that this mediæval barbarism now rioting here under the forms of law will reverse fundamental guarantees of Liberty constitutioned in these States. True, Comstockism is a loathsome, deadly, secret disease; but perhaps your Honor is to medicine it and you, Gentlemen, are the bearers to carry out its compost remains; perhaps the time has come when a Judge of "the quick and the dead" and Jurymen strong in natural, health and self-respect will say to this contagious infection "Thus far but no farther!" Be that as it may, my effort to vindicate Citizen Right, against lecherous, murderous assault, thus far is done, and I have no word to unsay, or step to retrace. Intrenched behind our Massachusetts Bill of Rights and the Federal Constitution; behind the Declaration of Independence and Plymouth Rock; behind Lincoln's and Alexander's emancipation decrees and Magna Charta; behind the Protestant Reformation, Christianity and every other utterance of the Infinite Word,—I say with Luther before the Diet at Worms "I neither care nor dare retract anything; it is neither right or safe to do so against Conscience. Here I take my stand; I can do no other wise." You, Gentlemen, and your Honor, will also obey your sense of right. The adverse verdict, five years ago, ruined my business, broke up my home, turned my family, penniless on the street, took my liberty and, well-nigh, my life; caged in tomb 52 of Dedham Hell, with clipped head and in felon's uniform, my physical vitality slowly but irrevocably breaking under the torturing tigers of even a liberal Jail,—as the days, weeks, months wore heavily on and sympathetic, indignant, throbbing hearts, in many States, echoed my protest, these precious children in their temporary, charitably-provided abode, again, again and again asked "Mamma, why does not Papa come home?" "Why does Papa not come home?" Gentlemen, shall I go home?

Freed from the vindictive clutch of a foreign spy shall I once more be allowed to mind my own business? Liberty, home and loved ones whose wants it is religion to supply, whose society it is heaven to share—are indeed dear to me. But what shall it profit one to have freedom himself if others sink under the pestilential breath of repression? If the "agent's" will must longer be law in State and gospel in Church; if with your aid he again slave-pens me in a prison-vault to wait and waste away, in my narrow home of iron and granite until the rude corpse-box bears back this body-form to my bereaved family, even then the ultimate result will be worth to the world all it costs me and mine; weak things will confound the mighty; others and still others with increasing, invincible numbers will rise in my tracks, and the good fight of faith will go on, until freedom to acquire and impart knowledge on all subjects of human interest, the right to have, print and mail honest opinions is assured wherever the Federal-Union flag floats.

Mr. Almy's closing address to the jury was reported by Wm. B. Wright, stenographer, who, unfortunately, lost his notes; we requested Mr. Almy to write it out for insertion here but he "does not wish to

As to the mischievous character and effect of this prosecution a more ill-advised and injudicious proceeding was never brought into a court of justice. Here is a book which has been published now for more than forty years, which appears never to have got into general circulation, to any practical extent, and which, by this injudicious proceeding, has been resuscitated to the extent of thousands of copies.—*The Lord Chief Justice in the Bradlaugh-Besant case.*

Recognizing the right of every American citizen to express his views upon marriage and divorce, as upon all other subjects, and that every man has a right to buy, sell or read the same I propose hereafter to sell the pamphlet to every person who wishes a copy of it. I will hand them to the purchaser or send them by mail or express as desired. I do this by virtue of the rights of an American citizen. If I go to prison for it to prison it is. For every one who falls for selling Cupid's Yokes ten will rise in his place to sell more.—*D. M. Bennett in Truth Truth Seeker, Sept. 7, 1878.*

Judge Benedict's definitions were so broad and uncertain that they might be used to condemn a very large, perhaps the larger part of the literature of the country as well as the isolated passages picked out of Cupid's Yokes. I say isolated passages for the court did not allow the whole book to come in evidence before us although we each had a copy of it in the jury room. I felt and still feel that these definitions carry the statute much further than Congress ever intended, or a fair application of it would warrant. . . I wished to maintain the right of the author, Mr. Heywood, and of those who agree with him to differ from me. . . Had the jurors been left to construe and apply the statute Mr. Bennett would never have been convicted.—*Juror, A. A. Valentine in Bennett case.*

Common Law decisions declare that peace includes good order and government; it may be broken without an actual force, to wit: If it be an act against the constitution or civil government; if it be an act against religion; if it be an act against morality; the question of obscenity of publication is for the jury. I accord to every man the fullest scope for his views and convictions,—in a decent or lawful manner or not at all. . . Infidels, as represented by the National Liberal League, are opposed to the Lord God Almighty maker of us all; to Je-sus Christ the only son of God, the Savior of mankind, the sinner's best friend and the way of eternal life; to the word of God and all the precious promises therein contained and to the ordinances and commandments of God made for the elevation of mankind designed to advance the highest interest of the human soul; to laws and their proper enforcement; to moral purity; to the Christian Sabbath; to the sinner's using common sense, being on the safe side, repenting of sin, believing in Jesus Christ and *his* making sure of his eternal salvation. . . I have arrested over four hundred of these creatures. . . Then came the answer to prayer, vindication, light and joy, positive proof that it is better to trust God than put confidence in men. . . By the Grace of the Everliving God the Liberal's demand shall not be allowed.—*Anthony Comstock in "Frauds Exposed."*

repeat any part of his addresses;" the speech was a concise statement of the government's case, followed by an earnest appeal to the jury to "protect" public and private "morals" by the suppression of such odious publications as the indicted *WORD*. His ideas of "law" echo what the "agent" so long gave to U. S. Courts, and his "respect" for juries did not seem to include even one among the twelve gentlemen before him who possibly might have clear-visioned ideas of Justice and resolute personality incarnating them. Then followed

Judge Nelson's Charge to the Jury.

MR. FOREMAN AND GENTLEMEN OF THE JURY:—In the first two counts of this indictment, the defendant is charged with having deposited in the mails of the United States certain obscene books and publications. There is no evidence before you in support of these two counts: and whatever your verdict may be on the other counts, it will be your duty on the two first counts to return a verdict of not guilty. The defendant has been arraigned upon them and the Government has failed to sustain them by proper evidence; therefore the defendant has a right to be acquitted on the two first counts of this indictment.

The indictment contains four counts in all, and only the two last, which are substantially for the same offense, are for your consideration. The statute of the United States provides that certain articles shall not be transported by mail, and among those articles is any "article or thing designed or intended for the prevention of conception;" and the law further declares that any advertisement of such an article is non-mailable matter, and it imposes a penalty upon any person who knowingly deposits, "or causes to be deposited" in the U. S. mail an advertisement of "where, or how, or of whom, or by what means" any such article can be obtained. The defendant here is charged in the last two counts of the indictment with having sent such an advertisement through the mail. In support of this charge the Government has introduced evidence of this character:—In the first place, Mr. Comstock was called as a witness and he has testified that on a certain day of Sept., last year, he sent a letter through the mail to the defendant at Princeton, signed by the name of some person other than its author,—what is generally known as a decoy letter—enclosing a subscription to a newspaper published in Princeton, called *THE WORD*. In due course of mail a copy of *THE WORD* came back to him through the mail. It further appears by the testimony of the postmaster in Princeton that such a letter as Mr. Comstock describes arrived there and was delivered to Mr. Heywood and a receipt therefor was signed by him, as the letter was a registered letter, and was returned to Comstock. So far there is evidence going to prove that the defendant was expected to send back these documents and that the defendant had received the letter of Comstock enclosing a subscription to the new-paper published in Princeton. It further appears that though the envelope which enclosed the paper sent to Comstock bears no postmark, still according to the testimony of Mr. Gregory, it is addressed in the hand-writing of the defendant. Now the Government is bound to prove to your satisfaction, with such clearness that no reasonable doubt shall remain in your minds, that this matter mentioned in the indictment was deposited directly or indirectly in the post office at Princeton in the manner which the testimony before you tends to prove it was deposited,—that is, it must be shown to your satisfaction, beyond reasonable doubt, that this paper was in point of fact deposited by Heywood, or by his agent. It would not be sufficient to constitute this offense if he turned the subscription over to the Co-operative Publishing Company and that they, or some agent of theirs other than Mr. Heywood, himself, did this. The offense cannot be committed except by the defendant's direct act, either by the direct deposit of the objectionable matter in the mail by him or under his express direction; the Government is bound, therefore, to prove clearly that this particular paper upon which it relies to support the indictment,—and is set forth in the third and fourth counts—was actually deposited in the post-office at Princeton by Heywood himself, or by some person acting directly under his orders. Nothing less than that would constitute the offense charged in this indictment. And if this subscription was received by Heywood and turned over by him to other parties, and they and not he, put the paper into the post-office, then the case has not been proven.

It must further appear that the existence of this advertisement, supposing that the Government has made out that he deposited the paper in the post-office,

must have been known to him,—that he did it knowing that it contained this advertisement. If he did not know that the paper contained the objectionable advertisement, then the Government has failed in proving that knowledge on the part of the defendant in doing the act which is essential to the offense; and though he may have put the paper into the post-office, if he did it without knowledge that this advertisement was in the paper, then he is entitled to a verdict of acquittal. The Government must further prove that what it calls, in the indictment, an advertisement, is in fact an advertisement. The words of the statute are: "Every written or printed card, circular, book, pamphlet, advertisement or notice of any kind, giving information directly or indirectly, where or how, or of whom, or by what means any of the hereinbefore mentioned matter, article or things may be obtained or made." It is a question whether what is claimed to be an advertisement, on the part of the Government, is an advertisement, and whether it is within that definition is solely for the consideration of the jury. You have before you the newspaper containing what is called an advertisement, and the definition of the statute. The Government must further prove that the article advertised is an article "designed or intended to prevent conception." That is a material allegation in the indictment; that is a question of fact for your consideration. The defendant has put into the case an article which is called the "Comstock syringe." Now, whatever the words of the advertisement may mean, unless the article advertised is designed or intended for this particular purpose, the charge has not been proved. The Government must prove this to your satisfaction; otherwise the indictment fails. The advertisement and the instrument itself are in the case. If you think in regard to any of these questions there is reasonable doubt, then the defendant should have the benefit of the doubt and is entitled to an acquittal.

Then again, you must remember the purpose for which this statute was enacted. It is not designed or intended to prohibit the publication of obscene matter; its object is the prohibition and prevention of the circulation of such matter through the mails, a subject over which Congress has supervision. The publication of this newspaper containing the advertisement is not the offense we are trying here. As far as any act of Congress is concerned that is of no consequence; we have only to deal with the character of the matter circulated through the mails, as to whether the paper complained of contained an objectionable advertisement and passed through the mails. You must not confound the alleged fact that this newspaper was published by Heywood as having anything to do with this case, because it has nothing whatever to do with it. The sole question is whether or not he actually deposited, or caused to be deposited, a newspaper containing an unlawful advertisement, as alleged in the indictment, in the U. S. Mail. Then again, it is entirely unimportant what sentiments the defendant may entertain on various subjects. They may or may not be delusions,—that is not a matter we are to judge or pass upon. You are to treat the case precisely as you would treat the case of a clerk employed by him at Princeton, who has knowingly deposited in the U. S. mail an objectionable advertisement. The views of the man on these subjects are not of the slightest importance. You are to consider whether the Government has proved beyond reasonable doubt that the defendant deposited in the mail at Princeton, and not elsewhere, an advertisement such as is alleged in the indictment, and whether or not the article which is advertised comes within the meaning of the statute; that is, "an article or thing designed for the prevention of conception." These are the facts you have to pass upon. It appears that if this newspaper was sent through the mail by Heywood, at all, it was sent in response to a decoy letter addressed to him by Mr. Comstock. That fact does not constitute Comstock an accomplice with Heywood in the commission of the offense; still it is a fact which you may consider in weighing Comstock's testimony. It is in one sense a species of deception, but one that is permitted for the purpose of the detection of crime. In weighing this man's testimony, you must judge him from his appearance, the occupation of his life, the manner in which he says he procured this newspaper from Heywood, and from the story which he tells. The credence which is to be given to him as a witness is wholly for your consideration.

As the case of the Government depends almost wholly upon his testimony, if you have substantial doubts as to his truthfulness, the defendant is entitled to the benefit of such doubts and you should return a verdict of not guilty. Your duty in respect to the first two counts of the indictment will be to return a verdict of not guilty. Your verdict in the two last counts will be guilty or not guilty, as you may find that the charges contained in them have or have not been clearly proved. You will now retire to consider your verdict.

October Word, the wrapper containing it and the Comstock Syringe went out with the jury as "evidence;" we were credibly informed that the jury were a unit for acquittal from the first, not a man favoring conviction; but it was near 1 o'clock P. M.; if they did not decide at once the government must give them dinner; so in order not to seem hasty, in so grave a matter, and also to enjoy one more good meal at public expense it appeared advisable not to agree till after food and grace! About three o'clock they filed in, under escort of a deputy marshal, and announced their verdict, "Not Guilty" which was received with manifest delight by the large audience which had stood by Liberty assailed during the nearly three days trial. Having been discharged by Clerk Bassett Mr. Heywood retired with the people. Meeting Foreman Cole, the old farmer of Sutton, on the street, Mr. H. was about to thank him for his service to Citizen Right; Mr. Cole replied, "You are under no obligation to me, I simply did what I felt to be right;" others of the jurymen in decisive words showed similar soul-power to rise above legal quibbles when their manhood was appealed to. Mr. Heywood's address occupied four and one-half hours and was listened to with unabated interest to the close. Judge Nelson's charge, reported by Mr. Wright and revised by himself, reveals intuitive rectitude which guided his action throughout. As items of historic interest we insert here portions of the evidence:—

TESTIMONY OF HENRY CHASE.

Q. (By Mr. Heywood.) Do you remember when you called at Science Hall to interview me last May that I gave you a special invitation to remain and address the Convention? A. Yes. Q. And said we would withdraw our own speakers to allow you to do so? A. Yes, sir. Q. You are agent of the N. E. Society for Suppression of Vice? A. I am. Q. Did you see or hear anything in the Free Love Convention when you called which seemed to you immoral? A. No sir. Q. Was there anything in my own words or manner indicating obscenity to you? A. Nothing.

TESTIMONY OF MR. H. M. FISHER, OF FISHERVILLE N. H.

Q. Are you an old-line reformer? A. An old-line abolitionist and reformer. Q. You are interested in these later movements, especially free-love? A. I am interested for freedom for everybody to express their opinions and maintain them; I want to hear everybody and uphold everybody in the right of expression. Q. You believe in Comstock having the right of his opinion? A. I certainly do. Q. Any one differing from you has the right to maintain that difference? A. I believe that. Q. How long have you known me? A. I guess it may be ten years. Q. Did you ever see anything tending to obscenity or indecency in my character or conduct? A. I have never seen anything of the kind. Q. You have attended the conventions in Boston? A. Some of them. Q. Did you ever hear anything lewd or indecent from my lips? A. No, never. Q. Can you tell us what is the tendency of these free-love publications and conventions to the matter of obscenity and morality? (Objected to and excluded.)

TESTIMONY OF E. S. TOBEY.

Mr. Heywood.—Mr. E. S. Tobey, post master of Boston. Your Honor, Mr. Tobey was requested to come here this morning especially in connection with the matter of "Leaves of Grass," the Postmaster-General having ruled last summer that the book was mailable, and, also, I may say for another reason: To my amazement I recently learned that the agent of the New England Society for the suppression of Vice, a branch I presume of the New York society of the same name, has gone so far as to visit book sellers in Boston without legal authority and order them to discontinue the sale of certain works that his society does not happen to understand. I desire now to question Mr. Tobey briefly on that point. Q. Are you a member of the New England Society for the Suppression of Vice? A. I believe I am, sir. Q. Do you know anything of its purpose in the suppression of these publications? I will ask first where that society holds its meetings? A. In the city of Boston. Q. At what place? A. I don't know as they have had more than one meeting. Q. Does it not meet at the Young Men's Christian Association rooms? (Objected to and excluded.)

TESTIMONY OF MRS. LUCY N. COLEMAN.

Q. (By Mr. Heywood.) Your residence is where? A. At Synecuse, N. Y. Q. Were you connected with the old Garrisonian movement? A. I was. Q. One of its lecturers? A. Yes Sir. Q. One of the supporters of the Anti-slavery Standard in New York? A. I was. Q. And of Garrison's Liberator in Boston? A. I was. Q. In regard to my connection with these later reforms, I take it you differ from me on many points? A. I think somewhat, sir; I cannot presume to say what we all think. Q. Yet you believe in the right of persons holding opinions different from your own? A.

I do not see sir how there is any right or wrong about it; we disbelieve what there is no force of evidence to show. I see no right or wrong in any opinion. I believe in people's being protected in their right to their opinions. Q. As to the right of woman to prevent conception? (This question was excluded.) Q. As to my motive in connection with the Free Love movement,—did you ever know me to intentionally favor any immoral principle or tendency? A. I never did. Q. Do you remember whether the same epithets were used in regard to Garrison as are now used toward the labor reformers and Free Lovers? A. Just the same. Q. As to the relation of this movement to the Woman's Rights question, do you understand that this is simply a later development of the Woman's rights and anti-slavery movements? A. I think so. Q. And a strictly moral and religious movement? A. Yes.

TESTIMONY OF JOSEPH P. SHEAFE OF MELROSE.

Q. (By Mr. Heywood) Have you ever been at Princeton? A. Yes. Q. When? A. Last summer. Q. Was there a convention there at the time? A. There was. Q. Where did you stop? A. I stopped at Mr. Heywood's house. Q. How long? A. I was there three or four days during the convention. Q. See anything obscene or immoral there? A. I saw there a nice harmonious home; everything was nice and well arranged, I saw nothing out of the way in any shape. Q. Any statement from my neighbors about obscenity or immorality? A. I did not hear or see anything of the kind. Q. You have attended the conventions in Boston? A. Yes sir. Q. You have read the Princeton publications? A. Many of them. Q. You have read THE WORD? A. Yes sir, regularly. Q. You have seen some things in it that you did not agree with? A. Yes sir. Q. Did you ever discover anything that, so far as the purpose of the publication went, favored obscenity or indecency? A. I don't think I saw anything tending to demoralize or injure anyone. I have not always agreed with what I have seen in THE WORD. Q. You understand that the writers in THE WORD are responsible simply for their own opinions and that the editor never endorses the opinions of other persons unless he says so? A. I always understood that to be the fact. Every one is responsible for what he writes in the paper or says in the Conventions. Q. People are responsible for what their name is signed to and nothing else? A. As long as I have been acquainted with the conventions I have been an earnest opponent of years and of the doctrine preached at those conventions although I have more recently found that I understood and knew the matter a little better. I have not felt the strong bitterness of hostility to it that I formerly did. I think some five or six years ago it seemed to be my business to oppose you and your doctrine and all those that preached it. It seemed to be my work as far as I had any there; and let me say I was astonished beyond measure that so good people and that so good a man, as I know Mr. Heywood to be, preached such bad doctrine as he did, and I have always fought the doctrine while I have given the right hand of fellowship to Mr. Heywood and I found him to be a remarkably pure, good, liberal and free-minded man. And of his house when I was at Princeton I can say I never saw a more harmonious, beautiful home than it. Everything was neat, pleasant, agreeable and above-board. I could not speak too highly of Mr. Heywood and his family. Q. In regard to the character of our work as to doing things "on the sly," and in secret when in Boston, using other people's names and so on? A. I do not think you could do it that way. You are your own worst enemy and preach more than you mean, I think, all the time. I know full well you speak openly. Q. In regard to the discussion on the platform, are our opponents always welcome to show wherein we are wrong? A. I do not think you would shut off any one; all are welcome. Q. Whether Comstock would be as welcome if he came into the conventions as anybody else? A. I think anybody would be welcome and any doctrine and any opposition would be welcome there. I fought you year by year and yet am as welcome to-day as at the outset.

Feb.-Mar., '82, obscenists coerced Osgood & Co. into cowardly submission to their lascivious censorship, designating 24 passages in *Leaves of Grass* which, backed by Dist. Att'y Stevens' threat, they *ordered expunged, before the book would again be allowed sale in Boston!* Here is the venerable poet's unterrified, manly reply:—

CAMDEN, N. J., May 23d, 1882.

J. R. OSGOOD & CO.: DEAR SIR; Yours of 21st received, with the curious list, (I suppose of course from the District Attorney), of "suggestions," lines, pages, pieces, etc., to be "expunged." The list, whole and several, is rejected by me, and will not be thought of under any circumstances. Respectfully,

WALT WHITMAN.

May 28-9, by special appointment, Dr. J. H. Swain publicly, as scripture-lessons, read to three sessions of the N. E. Free-Love-League Convention the two "ohscene" poems which appeared in Aug. WORD and on the "indicted" WORD EXTRA; this was unanimously adopted:

RESOLVED:—That effort to suppress Walt Whitman's Poems for their alleged obscenity, because officious exponents of "law and order" lack wit to understand them, shows the continued, lascivious stupidity voiced by pulpits and courts, the religious-political lewdness still mistaken for culture and purity; that, while now as heretofore

• asking immediate and unconditional repeal of all statutes, state or national, restricting freedom of press or mails, we proclaim it the natural right if not the positive duty of citizens to circulate the prohibited products of Thought or Art which impertinent censors of morals condemn.

Timely defiance appeared in successive issues of Liberty:—

LEAVES OF GRASS.—A new edition, reprinted from the Osgoods' plates without alteration or emendation, of the book which Ralph Waldo Emerson, during his life, hailed as "the most extraordinary piece of wit and wisdom that America has yet contributed," and which, after his death, was suppressed as "obscene" by the authorities of Massachusetts at the instigation of the Society for the Suppression of Vice. Price, \$2. Sent, post-paid, on receipt of price. Address: BENJ. R. TUCKER, Box 3366, Boston, Mass.

TO OLIVER STEVENS, District Attorney of Suffolk County; George Marston, Attorney-General of the Commonwealth of Massachusetts; E. S. Tobey, Postmaster of Boston; Anthony Comstock, Secretary and General Agent of the Society for the Suppression of Vice; and all other enemies of Liberty whom it may concern: You are hereby distinctly notified—all of you in general, and you, Oliver Stevens, in particular—that I have in my possession, and do now offer for sale, copies of the work advertised above. If you, or any one of you, believe, or affect to believe, that, in so doing, I am committing an unlawful act, you are invited to test the question whether twelve men, fairly chosen by lot, can be found in Massachusetts sufficiently bigoted, or intolerant, or hypocritical, to share with you, or pretend to share with you, such belief, or affection of belief. And, to avoid unnecessary trouble and make the evidence of sale indisputable, I offer, on receipt from any one of you of an order for a copy of the work, to deliver a copy to you in my own person, at such place in Boston as you may designate, and take payment therefor. Yours, disrespectfully, BENJ. R. TUCKER.

Though all supposed the battle over, contrary to the old maxim that lightening never repeatedly strikes one object, bigot wrath again flashed on Mr. Heywood, May 23d, when Dep. Sheriff Chas. N. Hair, took him suddenly from home on this Bench Warrant:—

COMMONWEALTH OF MASSACHUSETTS.

Worcester S. S. To the Sheriff of our County of Worcester, or his Deputy, Greeting: We command you, that, immediately, without delay, you take the Body of Ezra H. Heywood of Princeton, in said county of Worcester, (if he be found within your precinct) and him safely keep, so that you have him forthwith before our Justices of *The Superior Court* now holden at Worcester, on the second Monday of May, A. D. 1883, then and there, in our said Court to answer US upon an INDICTMENT found against him for distributing a certain printed paper containing obscene language manifestly tending to the corruption of youth, at Worcester in said County, on the first day of February, A. D. 1883, set forth in said indictment.

HEREOF FAIL NOT to make return of this Writ with the doings hereon. Witness Lincoln F. Brigham ESQUIRE at Worcester the eighteenth day of May in the year of our Lord one thousand eight hundred and eighty-three. Wm. T. Harlow, *Asst. Clerk*.

Held for trial in \$1,000 bail, H. H. Bigelow surety; liable by Mass. General Statutes, Chap. 207, Sec. 15, to five years in states-prison and \$1,000 fine, Mr. H.'s "offence" is alleged distributing one of a series of "Leaflet Literature" published by Angela T. Heywood which appeared in Jan. Word Y. L. 11, as "The Woman's View of It—No. 1;" in it she resents Comstock's repeated assaults on her family and woman universally, in his effort to *supervise* conception, force impregnation by act of Congress; that is she *opposes rape!* A legitimate, necessary, all-wise proper part of the defence it was specifically, entirely unintrusive until savage purists flared it in face of the public by a third raid on Right; postponed four times the case (May 13, '84) is still pending. Dunced if not damned, by perverse frenzy to mind other people's business, church-state villiany still invades Civil Right and duty to acquire and impart knowledge; in behalf of Personal Liberty and moral obligation; to assure religious growth, æsthetic Sobriety, mental vigor and Spiritual Rectitude *we demand immediate, unconditional REPEAL of all state and national "obscenity laws,"* and welcome co-operation from alert Intelligence to annihilate the infamous Censorship of the Press by which licentious, rioting ecclesiasticism now assails intuitive purity and Moral Order in these States. Thanks to all who have helped win points in this struggle for Rights worth prisons and scaffolds to vindicate; but while some languish in dungeons and others are threatened with torture for their Faith; while savage "statutes" hold nations under a reign of terror, out-ery becomes us better than exultation. Whatever "cultured" cowards, "scientific" tyrannists, slave or "free" religionists may say to the contrary, *extinction of restrictive hindrance to ENTERPRISE* is the watch-word of Progress, and liberating tendencies of irresistible EVOLUTION, transcending stealthy usurpation hostile to human well-being, move all intelligent Citizens to earnest, decisive ACTION.

May 27, 1884, Mr. Heywood's State case was called for trial at Worcester, W. S. B. Hopkins, Dist. Att'y for the prosecution, Robert C. Pitman of Newton, Judge; Mr. Heywood was prepared to conduct his own defense as in Boston, but H. L. Nelson Esq., son of Judge Nelson, volunteered to present and argue a motion to quash; it being specifically a legal point Mr. H. gladly accepted Mr. Nelson's service which was so intelligent and effective that Judge Pitman took time to consult his associates and finally nulled the outrage, news of his action reaching Mr. Heywood June 16th. Mr. Nelson showed that the indictment did not fully and plainly set forth to whom the articles complained of were delivered, the manner and mode of distribution, or that the articles were obscene, or that the defendant knew they were, or that he intended to corrupt youth. Abstract of Mr. Nelson's brief bearing on rights of opinion, commerce and association:—

First. As to the importance of alleging the intent. The Mass. cases are, *Commonwealth vs. Filburn*, 119 Mass. 297; *vs. Barrett*, 108 Mass. 302; *vs. Bean*, 11 Cush, 414; *vs. Clifford*, 8 Cush, 215; *Tully vs. Commonwealth*, 4 Met. 357.

In *Commonwealth vs. McGarrigill*, Superior Ct. (Suffolk) 1855, Abbott, Chief Justice says, as to the necessity of alleging knowledge in an indictment under this statute: "Generally, intent, knowledge, is of the very essence of crime, and there must be very strong reasons shown to exist to take any case out of the application of the general rule. There certainly appears to be no such considerations applicable to this case, and to hold that this offence may be committed by a blind man who sells books for a livelihood, and who happens innocently to sell an obscene publication, would be giving a construction to the statute manifestly harsh and not required by rules of law."

In *U. S. vs. Carll* 105 U. S. 611, (last case on subject) Judge Gray held that it was necessary to allege knowledge under a U. S. statute against passing counterfeit money, even though the statute did not purport to make knowledge essential to the crime. In *Chitty's Criminal Law* (vol. II p. 42) his form of an indictment for distributing obscene literature, contains an allegation of knowledge, "intending thereby to corrupt the morals of youth." These authorities overrule *Heard's Criminal Law*, the Mass. book which all lawyers use in drawing up indictments.

Second. As to the indictment not alleging to whom the printed paper was distributed. In all the forms this is alleged. *Heard Crim. Law* p. 535. So in all the adjudged cases, *Commonwealth vs. Holmes*, 17 Mass. 336; *vs. Tarbox*, 1 Cush. 66; *vs. Lawrence*, Worcester, May T. 1878. So in indictments for illegal sale of intoxicating liquors, it must be alleged to whom the liquor was sold.—*Commonwealth vs. Thurlow*, 24 Pickering 374; *vs. Doyle*, 11 R. I. 574. So in indictments for illegal gaming must allege with whom game was played. *Bishop on Stat. Crim.* §894. So for larceny & adultery must be alleged to whom property stolen belonged, or with whom defendant committed crime. It is an elementary rule of criminal pleading that the crime must be described with great particularity.

Judge Pitman's incidental remarks were liberal and sensible indicating that, if the case had been tried before him, his rulings would have ranked him with Lowell, Nelson and Treat, rather than with Clark, Aldrich and Benedict. In behalf of Citizen Right basely assaulted Mr. Heywood is under special obligations to Mr. Nelson, J. A. Titus and W. A. Williams of Worcester; to Geo. W. Searle, J. F. Pickering of Boston, and other lawyers. The Citizen's Petition to drop the case, drawn by Stephen Pearl Andrews, headed by Mr. and Mrs. P. A. Beaman, and presented by Dr. O. Howe and Geo. L. Bliss, in July 1883, to acting Dist. Att'y Gaskell, who fathered if he did not beget this ignoble prosecution; and another paper, for use in evidence if Mr. H. had been tried, the elaborately strong protest also drawn by Mr. Andrews, and signed by many leading Princetonians, one half of them women, were potent factors outworking final victory. To the liberal press and liberals generally Mr. Heywood is indebted for resolute, timely aid; the now dead indictment was a libel on him, personally, and on every other citizen live enough to oppose prevailing evils. Not obscene, the indicted Leaflet was an electric protest against male

effort to supervise maternal function; its author, "the woman in the case" is man's peer,—

"No weakling girl, who would surrender will
And life and reason, with her loving heart,
To her possessor; no soft clinging thing
Who would find breath alone within the arms
Of a strong master, and obediently
Wait on his whims in slavish carefulness;
No fawning, cringing spaniel to attend
His royal pleasure, and account herself
Rewarded by his pats and pretty words,
But a sound woman, who, with insight keen,
Has wrought a scheme of life, and measured well,
Her womanhood; has spread before her feet
A fine philosophy to guide her steps;
Has won a faith to which her life is brought
In strict adjustment—brain and heart mean while
Working in conscious harmony and rhythm
With the great scheme of God's great universe
On toward her being's end."

The women of America and of the world will some day be bright enough to sense the priceless service Mrs. Heywood did human kind in resenting the lascivious devilism which instigates persecution of Free Lovers. Her baby boy, Angelo Tilton Heywood, was in the Free Speech fight early; once, before birth, he threw the case over from Aug. to Oct; again, after birth, he continued it from Oct. to Jan.,—humane thought for Mrs. Heywood's MATERNAL SERVICE, moving Judges Barker and Aldrich to postpone Mr. H.'s trial twice.

Sixteen months, religio-political tyrannists, the vice mongers,* who in dark Cabals and mighty jantos meet, held Mr. Heywood liable to states prison penalties on a blind charge, and his accusers yet lurk in *clandestine* espionage! In the United States raids they gave us, at least, a decoy whose "morals" were supposed to be injured; but the Worcester assault is anonymous. F. T. Blackmer, Mr. Hopkins' predecessor was a mercenary tool of these nondescript skulks; Oct. 31st, 1883, when Mr. H. was called to trial, thinking he had him in his power Blackmer, by calculating merciless device (saying, "We must put a stop to the circulation of this stuff") tried to crowd Mr. H. into a corner where he could rush the case through, suddenly, to conviction already predetermined on and pre-arranged in his own mind! It was one of the darkest hours in all these tragic years; Mr. H. knocked at the only door out, a motion for

* Let us lay wait for blood; let us lurk privily for the innocent without cause; let us swallow them up alive as the grave. . . We shall fill our houses with spoil.—Prov. 1, 11-13.

The leading corporator, Homer B. Sprague, complains that I attacked the motives of the Vice Society. . . Lying is surely a vice, and sometimes a crime. Yet the Society which seeks incorporation has been known to use it as a means of suppressing other vices even less dangerous to the public. A New England "Goodocracy," with \$75,000 worth of plant, it is nothing but "aristocracy," which, in spite of its able censorship of morals, has always failed hitherto. The first thing I knew of this Society was that two modest looking women called at my office in great affliction. One of them told me that she and her husband were strangers in the city, and had come here to sell a particular book, which she showed me. He was arrested for having that book, and had been in jail a week from inability to obtain bail. I looked over the book carefully, and, not being able to discover any immorality in it, gave the required bail. The author was tried, and of course acquitted, otherwise the Bible Society would not be safe. He was too poor to get damages for false imprisonment; and I have not heard that the Society had the magnanimity to offer him any compensation for the injury it did him. I hope the Legislature, if it sees fit to grant the charter, will insert into it a clause compelling the Society to pay exemplary damages in case it fails to convict, and perhaps it may be well to prohibit lying as a means of prosecution.—*Elizur Wright in Boston Herald.*

continuance, which Judge Aldrich granted, in consideration of Mrs. Heywood's illness. But his incidental rulings coincided with Clark, Benedict and others of Comstock's assistants called judges, viz. that motives and character are immaterial; that (inferentially) the spirit and purpose of assailed prints are not to be considered; that words and sentences may be wrested from their context and branded as "obscene;" that the Bible, Shakspeare, Byron and other unquestionably (on that ruling) "obscene" books must not be considered by the jury in comparison with indicted matter, and that "no man may set up his judgment against the laws of the state." * Mr. Heywood was not permitted to look into the faces of his accusers in a preliminary examination; yet, by command of these nameless censors of the press and of morals who dare not appear in open daylight, Blackmer, jumping trivial matters of trial, verdict and sentence, having Mr. H. already states-prisoned, from the seat of Executive power, offered to "pardon" him as follows:—

All I ask is to have the business of distributing such tracts and papers stopped; if Mr. Heywood will agree to stop and stop at once that is the end of it.—*Worcester Gazette*, Nov. 2, 1883.

That is what Popes said to Luther, what the Stuarts said to Milton and Sidney, what Geo. III said to our ancestral rebels, what slaveholders said to Garrison and John Brown. The "tracts and papers" assaulted include not only discussion of Sex Questions, but printed matter opposing usury, rent and other speculative robbery. When Mr. H. was in prison for his Faith, in 1878, a Worcester capitalist, from whom he had natural right to expect very different treatment, evicted his family leaving Mrs. H. and their children penniless in the street; Labor Reform gospel is the "stuff" which especially troubles Worcester tyrannists. Ignorance of law, order and morals makes prosecuting attorneys tools of superstitious malice. Repressive censorship imposed on Citizens by obscenists *breeds* the very vices they pretend to oppose, and poisons the sources of being. Purity, continence, sobriety,—all the virtues flow from within, from quickened Reason and Conscience developing Character. Free Lovers are about the only exponents of morality whose Faith and Philosophy will bear examination. Motive, opinion, purpose; right to do what we will, maintaining the equal right of all others,—*Freedom of Conscience in Morals*, which Liberals have worked for, many years, is now affirmed in Judge Pitman's action. Hereafter obscenists must charge and *prove* wrong intention; with Pitman's view on the bench † neither Lant, Foote, Heywood or Bennett could have been convicted; every invasive wrong must go when Equity is incarnate in the court of opinion. Few have been able to see through the ignorance, hatred, impurity and perverse frenzy which have animated prosecutors, and recognize the rights, spirit and purpose of Social Evolutionists; yet here

* In 1842-3 Judge Aldrich taught school in Tappahannock, Va., "set up his (anti-slavery) judgment against the state," was shooed out therefor, settled later as "conscience-whig" lawyer in Barre, Mass., and, on the Free-Soil stump, voiced "treason" to Fugitive-Slave law with Mr. Heywood, then a conservative Webster-boy whig, among his listeners!

† When Mr. Heywood was arraigned, May 23d, 1883, and Mr. Gaskell insisted on his trial, within 45 hours of his first knowledge of the case which Worcester clandestines had been stealthily working up during four months, Mr. Heywood appealed to Judge Pitman who continued the case till Aug., saying, "The rights of the majority, of well-to-do, popular people are rarely imperilled; courts exist to protect the rights of minorities, of unpopular citizens."

and there are minds conservative of all that is right in traditional morality, because one with the indwelling harmony and progressive growth of things. *

A graduate of Brown University, Sept. 1856, Mr. Heywood thereby became A. M., Master of Arts; June 1878, he received the degree of U. S. C., United States Convict; in this seven-years struggle for Citizen Integrity he has been indicted three times,—in Dec. 1877, for alleged-mailing Cupids Yokes and Trall's Sexual Physiology; in Dec. 1882 for alleged-mailing Cupids Yokes, extracts from Leaves of Grass and a syringe advertisement; and in May 1883 as follows:—

COMMONWEALTH OF MASSACHUSETTS.

Worcester, ss. At the Superior Court, begun and holden at Worcester, within and for the County of Worcester, on the second Monday of May, in the year of our Lord one thousand eight hundred and eighty-three THE JURORS for the *Commonwealth*, on their *Oath present*,

That Ezra H. Heywood of Princeton in said County, on the first day of February in the year eighteen hundred and eighty-three, at Worcester in said County, did distribute a certain printed paper containing obscene language manifestly tending to the corruption of the morals of youth, which printed paper containing obscene language tending to the corruption of the morals of youth and distributed as aforesaid is of the tenor following that is to say, (here the Leaflet was fixed in) contrary to the form of the statute in such case made and provided. A true bill, Ashley M. Rice, Foreman; Francis A. Gaskill, District Attorney *Pro tempore*. A copy (except of the printed paper) attest, Wm. T. Harlow assistant clerk.

Here are the grand jurors who "found" this "true bill."—

Ashley M. Rice, Grafton, Foreman; Hiram P. Bemis, Paxton; Augustus W. Barr, Westborough; Nathan S. Caswell, Douglas; Eben N. Coffin, Hubbardston; Albert H. Edgerton, Sturbridge; Chas. H. Glazier, Fitchburg; Chauncey C. Hemenway, Barre; Lewis F. Johnson, Southborough; Chester B. Kendall, Gardner; Emory W. King, Charlton; Jacob S. Miller, Winchendon; Albert H. Nowhall, Sterling; Charles A. Rice, Northborough; George N. Richardson, Holden; Wilson Smith, Phillipston; Frank H. Southworth, Hardwick; Marcus D. Cronan, Daniel H. Eames, John W. Toole, Franklin B. White, Wm. O. Wilder, George Woodbury, Worcester.

Mr. and Mrs. Heywood's own townsmen and women said of it:—

TO THE DISTRICT ATTORNEY OF THE COUNTY OF WORCESTER, MASS., SIR:—We, the undersigned Citizens of Princeton, in said county, in view of the fact that Ezra H. Heywood has been again arrested and is liable to be sent to States Prison for five years or some less term, for expressing honest opinions and convictions, in the usual way, respectfully represent that: Ezra H. Heywood is a respected townsman and neighbor of ours; that we know him well, and know him as a good citizen, attending industriously to his own business, and never invading the equal right of other citizens to do the same; that he has been arrested and tried twice already (before this case), on *substantially the same charges*; and that he was in the first case unconditionally released, and in the second case acquitted.

He was released by President Hayes on the opinion of Attorney General Devens and of many others, that the jury had erred; and that there is absolutely nothing in Mr. Heywood's publications which partakes in the slightest degree of the nature of obscenity, the intention being taken into the account; but that they are earnest expressions of his opinions, as plain speaking was characteristic of the radical Abolitionists he formerly served with. He was acquitted in the second case on the same ground. Under these circumstances we submit that the present prosecution is unequal for. It is the provision of our law that no citizen shall be twice imperilled for the same offence. We believe that the *spirit* of that wise principle of the law is being violated in this case upon Mr. Heywood; and that this continued and determined assault on him; the endeavor to get him behind bars; to break up his family and business; and to drive Mrs. Heywood and their children into the street, on account of his and their opinions has gone to a length which partakes of persecution; which fact is likely to do more harm to the public morals than anything which Mr. Heywood has done or can do, by his publications.

* Judge B. F. Thomas, the able, old-time Worcester lawyer, said to Mr. Heywood, in 1877, after carefully reading Cupids Yokes, "It is a severe arraignment of marriage; the fact is, and *danger to you is in the fact* that people will not understand you; on the grave and subtle moral issues involved juries may be easily swung the wrong way by perverse attorneys." H. W. Paine, the clear-eyed jurist of Boston said of Cupids Yokes, "It contains much that all people, especially youth should study; but, Mr. Heywood, there is perfect liberty in these States to do everything but right; *that is always criminal and perilous.*"

And we, therefore, pray: That the indictment in question may rest in such a way that the said Heywood may have full and free exercise of the time-honored and dearly fought for liberty of Free Speech and a Free Press.

BASIS OF THE PRINCETON DEFENCE COMMITTEE IN THE MATTER OF EZRA H. HEYWOOD.

We, the undersigned Citizens of the town of Princeton, in the county of Worcester, in the State of Mass., irrespective of religious or political differences, constitute ourselves into a Defence Committee, to endeavor to prevent an undue and excessive pressure upon our townsman and fellow citizen, Ezra H. Heywood, and his family, under the form of legal prosecutions, for their views and Modes of Expression; which pressure may have degenerated into Persecution for Opinion, contrary to the great American doctrine of Free Speech.

We believe in fair play, as well for those from whom we differ most widely, as for ourselves; and many, probably most of us do differ, more or less widely from Mr. and Mrs. Heywood, in respect to certain doctrines which they hold and promulgate; and in respect to the good or bad taste of the methods they adopt of presenting the same; but we hold tenaciously to the right of Free Thought, Free Speech and a Free Press, as the bulwarks of our own Liberty; as something the possession of which has cost countless sacrifices to achieve it; and which is too precious to be risked or thrown away, through any unwise zeal in the prosecution of others. We cannot but remember that we or our children may sometime have unpopular opinions to defend; and we do not desire that we or they should be sent to the State Prison for five years, or for any term, for expressing them.

We are the fellow townsmen of Mr. and Mrs. Heywood; we know them well; and we know them in all other respects, than this of their method of expressing their opinions, as good and estimable citizens. Their children are as well reared and as moral as those of other citizens, and in some respects they excel; and we know of no complaint made of either parents or children, except in what relates to their views, and to what they regard as the necessary forms of speech to get their ideas expressed. They may be terribly mistaken in all this, but it does not follow that fines, imprisonment, or other forms of persecution are the right remedy. We do not desire to see Massachusetts again disgraced by a new career of persecution, as when witches were burned, or when Quakers, Baptists or Abolitionists were punished or mobbed, in the past, through ignorance or prejudice; and merely because they held strange and what seemed to their neighbors, of those days, immoral views. Massachusetts is now again making her history for the future; and we are anxious that her good name shall not be tarnished again by any mistake or over zealous invasion of the rights of the citizen.

While, therefore, but few of us participate in the views, or approve of the literary modes of expression of Mr. and Mrs. Heywood upon certain social questions of great delicacy; while most of us, on the contrary expressly dissent from, and repudiate their views of Stipiculture, the Sex Question; we do not believe that anything they have said or published is said or published with an obscene or lascivious purpose; but rather as their earnest, and it may be very indiscrete, mode of uttering their convictions—though this plain spoken and uncompromising advocacy of reform was learned in the good old school of radical abolitionism in which both Mr. and Mrs. Heywood zealously wrought; and we unite on this Defence Committee to prevent, if possible, a great wrong from being done; to hinder the infliction of an injustice; and to vindicate the good name of Massachusetts as the champion of human rights. And we mutually pledge ourselves to use our influence and best exertions in this behalf, in favor of Free Thought, Freedom of Speech and the Freedom of the Press—binding ourselves in no manner whatsoever in favor of or against ideas which different citizens may choose to promulgate. In other words we hold to Freedom as a Principle and will stand by it; dissenting from whatever we deem wrong, we yet do not, unless there is actual invasion of life or property, feel required ourselves, or to allow citizens, without protest, to persecute others for differing from us in opinion.

These papers (alluded to on page 48) are the "true bill" found by neighbors of the accused; as to whether his doctrines "tend to corrupt the morals of youth" Mr. Heywood was prepared to present his own children as evidence in his defence, with sworn statements from their Teacher, the School Committee and Town Clerk that the children are models of intelligence, sobriety and culture. Below we give specimen views from leading Liberals:—

Mrs. Heywood objects to the compulsion of her sex to bear paupers for the Tewksbury Almshouse, where their bodies may be prepared for the dissecting tables of Harvard, and their skins tanned for the leather trade! Every freeman is personally interested in the outcome of these trials. The Heywoods insist that the Sex Question shall be discussed. The fight is for the freedom of discussion—practically the freedom of the press.—*Foot's Health Monthly*.

These leaflets are not obscene; they are honest, earnest discussions of a great

question. They throb with passionate conviction. A man's heart and a woman's heart burn and quiver in every sentence. There is absolute sincerity. The very fury of utterance only shows the intensity of the thought that thus leaps like a volcanic flame. Words so tremendously freighted with human feeling cannot be obscene; they are true to the man's and woman's nature.—*S. P. Putnam in Truth Seeker.*

I am surprised that the authorities of Worcester Co. press such a villainous as well as ridiculous suit; it does not seem possible that the judge can charge the jury to convict a perfectly innocent man under a plainly unconstitutional law; if he does, a lunatic asylum is the place for him; if the jury convicts you it will deserve to be hanged. However much my opinions may differ from yours, on any subject, I should consider myself the meanest of earthly cusses if my sympathies were not with you *entirely* in this warfare against the basest and most idiotic of statutes. Yours truly, with my best regards to your brave wife.—*Elizur Wright.*

We congratulate Mr. Heywood on his deliverance from his persecutors, and hope he may never again be caught in their net, for though he is sometimes inclined to use the Anglo-Saxon language rather freely, yet we never imagined he really intended to encourage anything like obscene literature. His persecutors, however, thought differently, just as did the "rigid righteous" who in this city fifty years ago imbibed Dr. Graham for lecturing on physiology, in which useful teaching Mr. Heywood is now engaged and is allowed to live on the outside of a jail. "The world moves"—some, and persecution is on its march to the rear.—*Boston Investigator.*

Shades of Knowlton, Parsons, Baldwin and Dunlap where are your mantles when your honored Kneeland is being crucified in the persons of the Heywoods! They are of such stuff as, years ago we used to make into Garrisons, Pillsburys, Fosters and Phillipses; "I am in earnest; I will not retreat; I will be heard" is their motto. It is a great work Heywood undertakes and it requires a great man to bend to the load. He has glorious examples all the way down the ages—glorious ages, made glorious for our sake; we cannot pay to the past the debt we owe; let the present and future draw on us. Heywood is fighting for education and freedom. As in the story of John Rogers and his flock of little children, one man, one woman, and four beautiful children, battling for Ideas, now show us that domestic ties do not obscure blazing Truth.—*A. H. Wood.*

We know Ezra Heywood well; twenty years ago he was editor of the Daily Voice, a socialist, spiritualist, labor-reform paper in Boston. He is a man liable to be mastered by an idea, which is, perhaps, the best definition we can give of a "fanatic." He is not in any sense (practically) an immoral man, and what is still more strange, his associates and co-workers are not. He thinks the legal restrictions of the mail service, and of Sabbath observance are intolerable, and is willing to make any sacrifice to break them down. We differ with him very decidedly on these matters, yet we respect his sincerity, and good old Yankee determination to push his thought to the extreme verge of solution. But for such men we would all be slaves to-day, the born thralls of some feudal chief, with brass collars on our necks.—*R. M. Le Poer, Editor Fitchburg Tribune.*

Mrs. Heywood spoke frankly, freely, fearlessly, the most true and sacred thoughts of a mind pure as the driven snow upon the mountain tops; she is doing a much needed work which most of us have not the courage to undertake; but we should be doubly false to truth and ourselves did we deny her in this hour of need. Whether it be wise, as the world measures wisdom, for her to thus expose herself to misconstruction and crucifixion is for her to decide. We have no choice but to give her the meed of our sincere admiration, and such assistance as is ours to bestow. In such an hour criticisms upon the "methods" are wholly out of place. She is a pioneer in a way where we all must follow if we would reach the resplendent heights of purity and truth. Our children and children's children are calling from out the grey light of the Future for us to do our duty in this hour.—*E. C. Walker in Lucifer, Valley Falls, Kansas.*

Locking a man up for permitting his wife to express her views in public on a matter of mighty import to herself and other women is a little the most outrageous piece of injustice we have yet seen laid at the door of Massachusetts, since the branding-irons and whipping-posts of the Puritans were abandoned as a means of converting the Quakers, and since "witches" were slowly pressed to death in Salem under stones. . . The case was postponed several times; the district attorney tried to extort a promise from Heywood that he will cease mailing objectionable matter, but without avail. At last the indictment is quashed by

Judge Pitman. Heywood is fighting for a great purpose. It is nothing less than Free Speech. Of course we rejoice, and so should every right thinking person, whenever he gains a victory. In the matter of Personal Rights against the tyranny of society and its laws this Princeton Reformer is divinely obstinate.—*Winsted (Conn.) Press.*

Mr. Heywood may be wrong in his morals, but the moralists should be left to fight it out with him in the realm of morals. Have they no cause against him no newspapers, churches, or money? Are they so weak that they have no alternative but the brute force of the Law? The moment they bring in LAW for this purpose they touch fire. Everything else sinks into insignificance in a moment. We see the old church bringing in the rack and fire of the Inquisition, because its arguments fail. It becomes at once a question of religious and moral liberty—of free speech, free press and free mails in the realm of morals, and of FREE MEN in this "land of liberty!" Every Liberal who don't feel the touch of the old fire on this issue is no Liberal, Republican, Patriot or true American. Hon. Eliza Wright sees the issue at once and has taken the field again. He nobly became Mr. Heywood's bail. The curse of Liberty and Humanity will rest upon every recreant League, every traitorous Liberal, who does not sustain our old hero in this fight.—*T. B. Wakeman, Pres't National Liberal League.*

Mrs. Heywood appealed to the press and used it so far as she could, to make known to readers her wrongs; she argued against the absurd, villainous statutes which robbed her children of their father, herself of her husband, all married women of their rights and liberties in the most sacred of all relations; she was arguing, remonstrating with them against the cruel injustice to which she had been once subjected and now again was suffering from, at the hands of the minions of the U. S. Government whose great declared purpose is to secure the blessings of liberty to the people; her home in the heart of freedom-loving Massachusetts had been invaded; her innocent husband, upon whom she relied for assistance in supporting herself and her children, had been ruthlessly seized by the notorious Anthony Comstock on charges instigated by himself, carried off and imprisoned in a distant city. Why? why? is this awful calamity upon her, her babe and young children? She finds the cause of it in a statute prohibiting the publication of anything designed or intended for the prevention of conception,—a statute initiated at the solicitation of Comstock and other like-minded supporters of his Vice Society. It is not at all surprising (her home having been twice broken up by this pious, virtuous Comstock) that she should attempt to argue and to reason on the propriety and the right of any persons, legislators or clergymen or professed vice-suppressors, to enact such a statute. She finds in the Preamble of the Constitution of Massachusetts, that the purpose of government is to protect the people (including herself and all other women) in "enjoying with safety and tranquility their natural rights." The process of conception; is that a natural right, or an artificial right, or no right at all? Does government confer the power of generation? Can government rightfully enforce it, or restrain it? Is it wonderful, or illegal that an intelligent, hard-working married woman, of Massachusetts, whose home had been desolated and she reduced to extreme poverty by officious pretentious vice-suppressors, should inquire, whether married women had any and what rights, natural, governmental, artificial or otherwise in the matter of conception and generation of children? . . . Courage to say what cowards and more discreet people only think, has hitherto sent many a righteous man to the prison or the stake. I sincerely hope that you will not again be a victim to the prejudice, ignorance and mistaken zeal of your persecutors. It is an ignorant, a cruel, a self-conceited and barbarous spirit which would tear any man, especially a twice-and-thrice persecuted innocent man, like you, from his children and home and immure him in prison for publishing his own, or his wife's honest thoughts. Mrs. Heywood was religiously, morally, and legally justifiable in writing and you in distributing her sentiments upon the enormous outrage that Comstock under the forms of law had then recently perpetrated upon you and herself and your family; in discussing, in her own style, (for style is a mere matter of rhetoric and taste, and a man ought not to be punished because his wife has not studied rhetoric) the Sexual Ethics and the Congressional Statutes which had given opportunity for the perpetration of the wrong.—*A. E. Giles Esq.*

Mrs. E. M. F. Denton, T. C. and Mary A. Leland, Josephine R. Stone, M. Harman, Lydia Eve Blackstone, Eliza W. Philbrook, James Vincent, Geo. W. Carpenter, Albert H. Weld and hundreds of other intelligent judges spoke in equally decisive terms; even if grand jurors are legally drawn* what their ver-

*NOVEL POINTS OF LAW. *The Practice of Half a Century, Regarding Grand Juries, Called in Question.* In the legal motions argued before Judge Nelson in the case of E. H. Heywood, indicted for circulating alleged obscene literature through the mails, & O'Hearn, indicted for refusing to answer a supervisor's questions, points were raised regarding the drawing & deliberations of grand juries which are both novel & important, which, if sustained when taken to a higher court (as they will be

dicts, begotten by vice-society devilism, are worth, as compared with the views of competent critics of style, morals and character, readers know; but—

REPARATION TO INNOCENT CONVICTS.—It must be plain to everyone, clear as the sunlight, that the same rule should prevail with respect to the burden of justice which the state imposes upon individuals as with respect to the burden of taxation or of military service. As the state exacts a universal military obligation which no individual has a right to evade, so, inversely, the individual who enjoys the knowledge of his own innocence has a right to require that the law, to which every one without exception has to submit unconditionally without resistance, without objection, shall commit no offense toward him. If, however, by a casual concatenation of circumstances, or through erroneous suspicions, or by means of false evidence, more suffering or a greater sacrifice is imposed upon one individual than all the others have to bear, it becomes the unavoidable obligation of the state to make amends to him for the excessive burden he has to carry. The duty is an obligation in the strongest sense of the word, not in the remotest degree a mere matter of equity or of humanity or of favor. For why does this individual have, at the price of his freedom, his honor, his social position, his power to make money, his health and ability to work, of pain and care, and perhaps of misery to his family, to appear and make a sacrifice of himself that the judicial department of the state may exercise its function? Why must he suffer for the mistakes, even if they are unavoidable mistakes, of the state organs?—*Dr. H. Jaques, in Popular Science Monthly.*

What reparation the authorities of Worcester County, the Legislature of Massachusetts, and the United States Government will make for personal injury and costly disaster they have allowed vice-society villains to inflict on innocent and highly deserving citizens is now the question! Twelve years the ecclesiastic blood-hound, Comstock has traversed the States, riding free over all mail routes, armed with government power to enter complaints, search houses, seize persons, raid publishers, and as yet there is no redress! There were Personal Liberty Bills to protect negro-fugitive slaves; have editors and publishers equal rights with chattel-serfs? *Shall citizens longer be sacrificed to the blood-gorged, ecclesiastic Moloch?* RATHER LET US REPEAL OR NULLIFY THE INFAMOUS STATUTES!

taken in case of conviction), will reverse the practice of half a century, make the grand jury a responsible body instead of a puppet in the district attorney's hands, & thus add to the security of the rights of the citizen. The motions call in question the present method of drawing grand juries, on the ground that it violates, by limiting the number of names from which the jurors are drawn, that provision of the United States constitution which secures the accused the right to trial by jury, & deny the right of the district attorney to be present in the room of the grand jury during its deliberations & balloting. George W. Searle, counsel for O'Hearn, & until yesterday noon one of the counsel for Heywood, maintained the motions by argument & evidence. He claimed that the "trial by jury" referred to in the Constitution means trial by jury as it originally existed in England, not as it now exists after gradual corruption by constant judicial encroachments upon it, & that the original form involved the drawing of jurors from a box containing the names of the whole adult male population. It was further urged by Mr. Searle that the grand juries in these cases were drawn according to the form obtaining in the State courts of the district in violation of the United States statute of 1779, which provides a special method of drawing juries in the absence of a special order from the court directing that the State method be followed—an argument which the government answered by saying that the venires issued constituted such a judicial order. S. F. McCleary, city clerk of Boston when the juries were drawn, testified that the usual state methods were followed, & Lysander Spooner's work, "Trial by Jury," was put in as evidence. In support of his position regarding the presence of the district attorney in the grand jury room, Mr. Searle quoted a decision of the supreme court of Texas, rendered in 1830, in the case of the people vs. Rothschild, which stated in positive & unmistakable terms that the presence of the district attorney with the grand jury during its deliberations rendered the results there invalid & void; & a charge given to a California grand jury within recent years by Judge Field, now of the United States Supreme Court, to the effect that it would be improper for it to act before any one except the witnesses to be examined. The court overruled the motions on the ground of their great importance, saying that he preferred to have a bench of judges pass upon matters which involved such a revolution in legal procedure. In the Heywood case the prisoner has been abandoned by his counsel & will conduct his own defence, a course which his friends have been steadily anxious for him to follow. After making affidavit that he was in no way responsible for his counsel's withdrawal, & that he needed time to prepare adequately a case involving so deeply the liberties of the individual, he was granted a continuance till the March term of court. Then, being arraigned, he pleaded "not guilty" to the indictment, & was ordered to renew his bonds prior to the expiration of the court.—*Boston Globe, Jan. 2, 1883.*

EVOLUTION, REVOLUTION.

FREE LABOR, FREE LOVE, ANTI-DEATH AND TAXES.—**USURY, RENT, MARRIAGE, WAR, DEATH AND TAXES**, being in conflict with the Nature of Things, must pass away. Prove all things and hold fast that which is good. Know yourself and judge for yourself what is right and best in life. Seek Truth, and work out your own Salvation, incarnating Equity, cost what it may.

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